



भारत का राजपत्र

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No. 41] NEW DELHI, OCTOBER 7—OCTOBER 13, 2007, SATURDAY/ASVINA 15—ASVINA 21, 1929

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृष्ठक संकलन के रूप में रखा जा सके।
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप—खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं

**Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)**

अल्पसंख्यक कार्य मंत्रालय

नई दिल्ली, 4 अक्टूबर, 2007

का.आ. 2987.—भारत में भौगोलिक स्थिति के अनुसार अल्पसंख्यक आबादी संबंधी जटिलता विषय पर एक अंतरमंत्रालयीय कार्य दल का गठन अधिसूचना सं. 5-12/2006-पीपी. I दिनांक 02 मार्च, 2007 द्वारा किया गया था। उक्त अधिसूचना के पैरा 5 के अनुसार इस कार्यदल को अपनी रिपोर्ट तीन मास की अवधि के भीतर प्रस्तुत करनी थी।

2. कार्यदल के विचारार्थ विषयों के संदर्भ में एक स्थिति-पत्र तैयार करने के लिए, इस कार्यदल द्वारा एक उपसमूह गठित किया गया है। इसलिए कार्यदल द्वारा रिपोर्ट प्रस्तुत करने की अवधि अधिसूचना सं. 5-12/2006-पीपी. I दिनांक 10 जुलाई, 2007 के अंतर्गत तीन मास तक और बढ़ाया गया था।

3. कुछ मंत्रालयों से अभी भी सूचना प्रतीक्षित है। इसे देखते हुए कार्यदल द्वारा रिपोर्ट प्रस्तुत करने की अवधि को दो मास तक और बढ़ाया गया है।

4. इसे सक्षम प्राधिकारी का अनुमोदन प्राप्त है।

[सं. 5-12/2006-पीपी.-I]

अमेइंजिंग लुईखम, संयुक्त सचिव

MINISTRY OF MINORITY AFFAIRS

New Delhi, the 4th October, 2007

S.O. 2987.—An inter-ministerial Task Force on implications of the geographical distribution of minorities in India was set up vide notification No.5-12/2006-PP-I dated 2nd March, 2007. As per para 5 of the said notification, the Task Force was required to submit its report within a period of three months.

2. For preparation of a position paper in the context of the terms of reference of the TaskForce, a sub-group has been set up by the Task Force. As such the period of submission of the report by the Task Force had been extended by three months vide notification No.5-12/2006-PP-I dated 10th July, 2007.

3. Information from several Ministries is still awaited. In view of this, the period for submission of the report by the Task Force has been further extended by two months.

4. This has the approval of the Competent Authority.

[No. 5-12/2006-P.P-I]

AMEISING LUIKHAM, Jr. Secy.

वित्त मंत्रालय
(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

शुद्धिपत्र

नई दिल्ली । अक्टूबर, 2007

का.आ. 2988.—भारत के राजपत्र के भाग-II खंड 3, उपखंड (ii) में 5 मार्च, 2005 को प्रकाशित सरकारी स्थान (अप्राधिकृत अधिभोगियों की बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 के तहत भारत सरकार, वित्त मंत्रालय, आर्थिक कार्य विभाग (बैंकिंग प्रभाग) का.आ. सं. 710 दिनांक 18 फरवरी, 2005 की अधिसूचना में क्रमांक 2 के कॉलम 2 में (वारंगल) शब्द के स्थान पर 'गुलबाग' प्रतिस्थापित किया जाना है और अब क्रमांक 2 के कॉलम 2 को निम्नानुसार पढ़ा जाना चाहिए :

मुख्य प्रबंधक,
उप महाप्रबंधक कार्यालय,
स्टेट बैंक ऑफ हैदराबाद,
आंचलिक कार्यालय,
गुलबाग।

[फा. सं. 13/03/2005-बीओए-बीओ-II]

एस. गोपाल कृष्ण, अवर सचिव

MINISTRY OF FINANCE

(Department of Economic Affairs)

(BANKING DIVISION)

CORRIGENDUM

New Delhi, 1st October, 2007

S.O. 2988.—In the notification of the Government of India, Ministry of Finance, Department of Economic Affairs (Banking Division), S.O. No. 710 under Section 3 of Public Premises (Eviction of unauthorized occupants) Act, 1971 (40 of 1971) dated 18 February, 2005 published in the Gazette of India in Part-II, Section 3, Sub-section (ii) on 5th March, 2005, in column 2 of serial no. 2 the word 'Warangal' is to be replaced by 'Gulbarga' and now column 2 of Serial No.2 should be read as under :

The Chief Manager,
Office of the Deputy General Manager,
State Bank of Hyderabad,
Zonal Office,
Gulbarga.

[F. No. 13/03/2005-BOA-BO-II]

S. GOPAL KRISHNA, Under Secy.

(व्यय विभाग)

नई दिल्ली 5 अक्टूबर, 2007

का.आ. 2989.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में, वित्त मंत्रालय, व्यय विभाग के अंतर्गत आने वाले निम्नलिखित कार्यालयों को एतद्वारा अधिसूचित करती है, जिनके 80 प्रतिशत से अधिक अधिकारियों/कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है :-

1. शासकीय लेखा एवं वित्त संस्थान, ब्लॉक नं. 4, जे.एन.यू. कैम्पस (ओल्ड), नई दिल्ली।

2. केंद्रीय पेंशन लेखा कार्यालय, त्रिकूट-II, भीकाजी कॉमा प्लैस, नई दिल्ली।

2. यह अधिसूचना राजपत्र में प्रकाशन की तारीख से प्रवृत्त होगी।

[सं. ई-11020/16/2006-हिन्दी]

रीता मेनन, अपर सचिव

(Department of Expenditure)

New Delhi, the 5th October, 2007

S.O. 2989.—in pursuance of Sub-Rule (4) of the Rule 10 of the Official Language (use of official purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices under the control of M/o Finance, D/o Expenditure, whereof more than 80% staff have acquired the working knowledge of Hindi :—

1. Institute of Government Accounts & Finance, Block No.IV, J.N.U. Campus (old) New Delhi.
2. Central Pension Accounting Office, Trikoot-II, Bhikaji Cama Place, New Delhi.

2. This notification shall come into force from the date of publication in the Official Gazette.

[No. E-11020/16/2006-Hindi]

RITA MENON, Addl. Secy.

(वित्तीय सेवाएं विभाग)

नई दिल्ली 8 अक्टूबर, 2007

का.आ. 2990.—भारतीय स्टेट बैंक अधिनियम, 1955 (1955 का 23) की धारा 19 के खंड (ख) और धारा 20 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, भारतीय रिजर्व बैंक से परामर्श करने के पश्चात् एतद्वारा, श्री एस. के. भट्टाचार्य, (जन्म तिथि : 31-10-1950) प्रबंध निदेशक, स्टेट बैंक ऑफ बोकानेर एंड जयपुर को उनके द्वारा कार्यभार ग्रहण करने की तारीख से उनकी अधिवर्षिता की तारीख अर्थात् 31 अक्टूबर, 2010 तक या अगले आदेशों तक, इनमें से जो भी पहले हो, 24050-650-26000 रुपए के बेतनमान में भारतीय स्टेट बैंक के प्रबंध निदेशक के रूप में नियुक्त करती है।

[फा. सं. 8/1/2007-बीओ-1]

जी.बी. सिंह, उप सचिव

(Department of Financial Services)

New Delhi, the 8th October, 2007

S.O. 2990.—In exercise of the powers conferred by clause (b) of Section 19 and sub-section (1) of Section 20 of the State Bank of India Act, 1955 (23 of 1955), the Central Government, after consultation with the Reserve Bank of India, hereby appoints Shri S.K. Bhattacharya (DOB: 31-10-1950) Managing Director, State Bank of Bikaner & Jaipur as Managing Director, State Bank of India in the pay scale of Rs. 24050-650-26000 with effect from the date of

his taking charge and till the date of his superannuation i.e. up to 31st October, 2010 or until further orders, whichever is earlier.

[F. No. 8/01/2007-BO-I]
G. B. SINGH, Dy. Secy.

(राजस्व विभाग)

(केंद्रीय प्रत्यक्ष कर बोर्ड)

नई दिल्ली 8 अक्टूबर, 2007

का.आ. 2991.—सर्वसाधारण की जानकारी के लिए एतद्वारा यह अधिसूचित किया जाता है कि केन्द्र सरकार द्वारा आयकर नियमावली, 1962 (उक्त नियमावली) के नियम 5ग और 5ड. के साथ पठित अधिनियम, 1961 (उक्त अधिनियम) की धारा 35 की उपधारा (1) के खांड (iii) के प्रयोजनार्थ 1-4-2007 से संगठन सेंटर फॉर रिसर्च इन रूरल एण्ड इंडस्ट्रियल डेवलपमेंट, चंडीगढ़ को निम्नलिखित शर्तों के अधीन आंशिक रूप से अनुसंधान कार्यकलापों में लगी 'अन्य संस्था' की श्रेणी में अनुमोदित किया गया है, अर्थात् :—

- (i) अनुमोदित संगठन को प्रदत्त राशि का उपयोग सामाजिक विज्ञानों में अनुसंधान के लिए किया जाएगा;
- (ii) अनुमोदित संगठन अपने संकाय सदस्यों अथवा अपने नामांकित छात्रों के माध्यम से सामाजिक विज्ञान अथवा सांख्यिकीय अनुसंधान में अनुसंधान करेगा;
- (iii) अनुमोदित संगठन बही-खाता रखेगा तथा उक्त अधिनियम की धारा 288 की उप-धारा (2) के स्पष्टीकरण में यथा परिभाषित किसी लेखाकार से अपनी खाता-बही की लेखा परीक्षा कराएगा और उक्त अधिनियम की धारा 139 की उप-धारा (1) के अंतर्गत आय विवरणी प्रस्तुत करने की नियत तिथि तक ऐसे लेखाकार द्वारा विधिवत् सत्यापित एवं हस्ताक्षरित लेखा परीक्षा रिपोर्ट मामले में क्षेत्राधिकार रखने वाले आयकर आयुक्त अथवा आयकर निदेशक को प्रस्तुत करेगा।
- (iv) अनुमोदित संगठन सामाजिक विज्ञानों में अनुसंधान के लिए प्राप्त दान तथा प्रयुक्त राशि का अलग विवरण रखेगा और उपर्युक्त लेखा परीक्षा रिपोर्ट के साथ लेखा परीक्षक द्वारा विधिवत् सत्यापित ऐसे विवरण की प्रति प्रस्तुत करेगा।

2. केन्द्र सरकार यह अनुमोदन वापिस ले लेगी यदि अनुमोदित संगठन :—

- (क) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित लेखा बही नहीं रखेगा; अथवा
- (ख) पैराग्राफ 1 के उप-पैराग्राफ (iii) में उल्लिखित अपनी लेखा परीक्षा रिपोर्ट प्रस्तुत नहीं करेगा; अथवा
- (ग) पैराग्राफ 1 के उप-पैराग्राफ (iv) में उल्लिखित सामाजिक विज्ञानों अथवा सांख्यिकीय अनुसंधान में अनुसंधान के

लिए प्राप्त एवं प्रयुक्त दान का अपना विवरण प्रस्तुत नहीं करेगा; अथवा

- (घ) अपना अनुसंधान कार्य करना बंद कर देगा अथवा इसके अनुसंधान कार्य को जायज नहीं पाया जाएगा; अथवा
- (ङ.) उक्त नियमावली के नियम 5 ग और 5 ड. के साथ पठित उक्त अधिनियम की धारा 35 की उपधारा (1) के खांड (iii) के प्रवधानों के अनुरूप नहीं होगा तथा उनका पालन नहीं करेगा।

[अधिसूचना सं. 256/2007/फा. सं. 203/29/2007-आ.क.नि.-II]

सुरेन्द्र पाल, अवर सचिव

(Department of Revenue)

(Central Board of Direct Taxes)

New Delhi, the 8th October, 2007

S.O. 2991.—It is hereby notified for general information that the organization Centre for Research in Rural & Industrial Development, Chandigarh has been approved by the Central Government for the purpose of clause (iii) of sub-section (1) of Section 35 of the Income-tax Act, 1961 (said Act), read with rules 5C and 5E of the Income-tax Rules, 1962 (said Rules) with effect from 1-4-2007 in the category of 'Other Institution' partly engaged in research activities subject to the following conditions, namely :—

- (i) The sums paid to the approved organization shall be utilized for research in social sciences;
- (ii) The approved organization shall carry out research in social science or statistical research through its faculty members or its enrolled students;
- (iii) The approved organization shall maintain books of accounts and get such books audited by an accountant as defined in the explanation to sub-section (2) of Section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of Section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for research in social sciences and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

2. The Central Government shall withdraw the approval if the approved organization :—

- (a) fails to maintain books of accounts referred to in subparagraph (iii) of paragraph 1; or

- (b) fails to furnish its audit report referred to in subparagraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and sums applied for research in social sciences or statistical research referred to in subparagraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (iii) of sub-section (1) of Section 35 of the said Act, read with rules 5C and 5E of the said Rules.

[Notification No. 256/2007/F. No. 203/29/2007/ITA-II]
SURINDER PAL, Under Secy.

सूचना और प्रसारण मंत्रालय

नई दिल्ली, 20 अगस्त, 2007

का.आ. 2992.—इस मंत्रालय की दिनांक 06-08-2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के मुंबई सलाहकार पैनल के सदस्य के रूप में श्री यासीन निर्बन, 292, अब्दुल रहमान स्ट्रीट, तीसरा तल, फ्लैट नं. 13/14, माचिसवाला भवन, मुंबई-400003 को नियुक्त करती है।

[फा. सं. 809/4/2007-एफ (सी)]
संगीता सिंह, निदेशक (फिल्म)

MINISTRY OF INFORMATION AND BROADCASTING

New Delhi, the 20th August 2007

S.O. 2992.—In continuation of this Ministry's notification of even number dated 06-08-2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Shri Sabir Yasin Nirban, 292, Abdul Rehman Street, 3rd Floor, Flat No.13/14, Matchiswala Bldg., Mumbai - 400003 as member of the Mumbai Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F. No. 809/4/2007-F(C)]
SANDEETA SINGH, Director (Films)

नई दिल्ली, 29 अगस्त, 2007

का.आ. 2993.—इस मंत्रालय की दिनांक 20-6-2005 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार, केंद्रीय फिल्म प्रमाणन बोर्ड के मुंबई सलाहकार पैनल के सदस्यों के कार्यकाल को दिनांक 20-6-2007 से 5-8-2007 तक की अवधि के लिए बढ़ाती है।

[फा. सं. 809/1/2004-एफ (सी)]
संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 29th August 2007

S.O. 2993.—In continuation of this Ministry's notification of even number dated 20-06-2005 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to extend the term of the members of the Mumbai Advisory Panel of the Central Board of Film Certification for the period from 20-06-2007 to 05-08-2007.

[F. No. 809/1/2004-F(C)]
SANDEETA SINGH, Director (Films)]

नई दिल्ली, 7 सितम्बर, 2007

का.आ. 2994.—इस मंत्रालय की दिनांक 31 मई, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार, तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के हैदराबाद सलाहकार पैनल के सदस्यों के रूप में श्री पोटटुरी रंगा राव और श्री पिट्टु श्रीनिवास रेड्डी को नियुक्त करती है।

[फा. सं. 809/1/2007-एफ (सी)]
संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 7th September, 2007

S.O. 2994.—In continuation of this Ministry's Notification of even number dated 31st May, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Shri Potturi Ranga Rao and Shri Pittu Srinivasa Reddy as members of the Hyderabad advisory panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F. No. 809/1/2007-F(C)]
SANDEETA SINGH, Director (Films)

नई दिल्ली, 13 सितम्बर, 2007

का.आ. 2995.—इस मंत्रालय की दिनांक 6-8-2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या आगले आदेशों तक, जो भी पहले हो, केंद्रीय फिल्म प्रमाणन बोर्ड के मुंबई सलाहकार पैनल के सदस्य के रूप में श्रीमती उषा ठाकर, ए-402, चैतन्या टावर्स, अप्पासाहब मराठे मार्ग, प्रभादेवी, मुंबई-400025 को नियुक्त करती है।

[फा सं. 809/4/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 13th September, 2007

S.O. 2995.—In continuation of this Ministry's notification of even number dated 6.8.2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to appoint Smt. Usha Thakar, A-402, Chaitanya Towers, Appasaheb Marathe Marg, Prabhadevi, Mumbai - 400025 as member of the Mumbai Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier.

[F. No. 809/4/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 13 सितम्बर, 2007

का.आ. 2996.—चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्र सरकार, केंद्रीय फिल्म प्रमाणन बोर्ड के दिल्ली सहालकार पैनल का गठन करती है और निम्नलिखित व्यक्तियों को उक्त पैनल के सदस्यों के रूप में तत्काल प्रभाव से दो वर्षों की अवधि के लिए या आगले आदेशों तक, जो भी पहले हो, नियुक्त करती है। यह दिनांक 30-08-2005 की इस मंत्रालय की अधिसूचना सं. 809/7/2004-एफ (सी) के अधिक्रमण में है।

1. श्रीमती जे. उमा राव
2. डा. अरुणा मुकीम
3. सुश्री छायनिका उनियाल
4. सुश्री परपीत बरार
5. श्रीमती मधुमिता चक्रवर्ती
6. श्री नीरज डांगी
7. सुश्री गायत्री राय
8. सुश्री नाज़ असघर
9. सुश्री दीपमाला मोहन
10. सुश्री सुष्मा सिन्हा

11. सुश्री मीनू मिश्र
12. सुश्री नंदिनी सहाय
13. श्री धरम सिंह
14. श्री विक्रम मल्होत्रा
15. श्री नितिन शर्मा
16. डा. नीति कपूर
17. डा. शरत चंद्रा
18. श्री राजेश गुप्ता
19. श्री बी. विष्णु वर्धन रेड्डी
20. श्री भावेश चौधरी
21. श्रीमती सरोज शर्मा
22. श्री देवेन्द्र कुमार

[फा सं. 809/7/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 13th September, 2007

S.O. 2996.—In exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952(37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to constitute the Delhi Advisory Panel of the Central Board of Film Certification and to appoint the following persons as members of the said panel with immediate effect for a period of two years or until further orders, whichever is earlier. This supersedes this Ministry's Notification No. 809/7/2004-F(C) dated 30-08-2005.

1. Smt. J. Uma Rao
2. Dr. Aruna Mukim
3. Ms. Chaynika Uniyal
4. Ms. Parpeet Brar
5. Smt. Madhumita Chakraborty
6. Shri Neeraj Dangi
7. Ms. Gayatri Rai
8. Ms. Naz Asghar
9. Ms. Deep Mala Mohan
10. Ms. Sushma Sinha
11. Ms. Meenu Mishra
12. Ms. Nandini Sahai
13. Shri Dharam Singh
14. Shri Vikram Malhotra
15. Shri Nitin Sharma
16. Dr. Niti Kapur
17. Dr. Sarat Chandra
18. Shri Rajesh Gupta
19. Shri B. Vishnu Vardhan Reddy
20. Shri Bhawesh Choudhary
21. Smt. Saroj Sharma
22. Shri Devender Kumar

[F. No. 809/7/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 21 सितम्बर, 2007

का.आ. 2997.—इस मंत्रालय की दिनांक 31 मई, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, निम्नलिखित व्यक्तियों को तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केन्द्रीय फिल्म प्रमाणन बोर्ड के हैदराबाद सलाहकार पैनल के सदस्यों के रूप में नियुक्त करती है :—

- (i) श्री शंकर सतीश कुमार
- (ii) श्री के. रमन वेंकट
- (iii) श्री गहरवाड़ रघुवीर सिंह ठाकुर
- (iv) श्रीमती सइदा सभीहा सुल्ताना
- (v) श्रीमती वुयूरु अनसूया
- (vi) श्रीमती बोम्मिसेट्टी दुर्गा देवी

[फा सं. 809/1/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 21st September, 2007

S.O. 2997.—In continuation of this Ministry's Notification of even number dated 31st May, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint the following persons as members of the Hyderabad Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier :—

- (i) Shri Sunkara Satish Kumar
- (ii) Shri K. Ramana Venkat
- (iii) Shri Gaharwar Raghuveer Singh Thakur
- (iv) Smt. Syeda Sabheeha Sultana
- (v) Smt. Vuyyuru Anasuya
- (vi) Smt. Bommisetti Durga Devi

[F.No. 809/1/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 25 सितम्बर, 2007

का.आ. 2998.—इस मंत्रालय की दिनांक 11-07-2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधि नियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केन्द्रीय फिल्म प्रमाणन बोर्ड के हैदराबाद सलाहकार पैनल के सदस्य के रूप में श्रीमती वी. नागारलम भगवतरिणी, 19-08-197-सी, स्टेट बैंक कालानी, आर. सी. रोड, तिरुप्पति - 571501 को नियुक्त करती है।

[फा सं. 809/5/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 25th September, 2007

S.O. 2998.—In continuation of this Ministry's Notification of even number dated 11-7-2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint the following persons as members of the Bangalore Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier :—

- (i) Shri S.V. Venkatesh
- (ii) Shri V.E. Srinivasan
- (iii) Shri K.S. Basavarajappa
- (iv) Shri G. Venu Yadav
- (v) Shri B.V. Munivenkatappa

[F. No. 809/5/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 25 सितम्बर, 2007

का.आ. 2999.—इस मंत्रालय की दिनांक 31 मई, 2007 की समसंख्यक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पठित चलचित्र अधि नियम, 1952 (1952 का 37) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या अगले आदेशों तक, जो भी पहले हो, केन्द्रीय फिल्म प्रमाणन बोर्ड के हैदराबाद सलाहकार पैनल के सदस्य के रूप में श्रीमती वी. नागारलम भगवतरिणी, 19-08-197-सी, स्टेट बैंक कालानी, आर. सी. रोड, तिरुप्पति - 571501 को नियुक्त करती है।

[फा सं. 809/1/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 25th September, 2007

S.O. 2999.—In continuation of this Ministry's Notification of even number dated 31st May, 2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952), read

with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Smt. V. Nagaratnam Bhagavatarini 19-08-197-C, State Bank Colony, R.C. Road, Tirupati - 571 501 as a member of the Hyderabad Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier:

[F. No. 809/1/2007-F(C)]

SANGEETA SINGH, Director (Films)

नई दिल्ली, 25 सितम्बर, 2007

का.आ. 3000.—इस मंत्रालय की दिनांक 29-03-2007 की समसंघयक अधिसूचना के अनुक्रम में और चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 7 और 8 के साथ पाठित चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार तत्काल प्रभाव से दो वर्षों की अवधि के लिए या आगले आदेशों तक, जो भी पहले हो, केन्द्रीय फिल्म प्रमाणन बोर्ड के चेन्नई सलाहकार पैनल के सदस्य के रूप में श्री के. बलराम, 4, सुब्रमण्यपुरम, रोड सं 2, आर.एस. पुरम, कोयम्बटूर - 641002 को नियुक्त करती है।

[फा सं. 809/2/2007-एफ (सी)]

संगीता सिंह, निदेशक (फिल्म)

New Delhi, the 25th September, 2007

S.O. 3000.—In continuation of this Ministry's Notification of even number dated 29-03-2007 and in exercise of the powers conferred by sub-section (1) of Section 5 of the Cinematograph Act, 1952 (37 of 1952) read with rules 7 and 8 of the Cinematograph (Certification) Rules, 1983 the Central Government is pleased to appoint Shri K. Selvaraj, 4, Subramaniapuram, Road No. 2, R.S. Puram, Coimbatore-641002 as a member of the Chennai Advisory Panel of the Central Board of Film Certification with immediate effect for a period of two years or until further orders, whichever is earlier:

[F. No. 809/2/2007-F(C)]

SANGEETA SINGH, Director (Films)

संचार और सूचना प्रौद्योगिकी मंत्रालय

(दूरसंचार विभाग)

(राजभाषा अनुभाग)

नई दिल्ली, 3 अक्टूबर, 2007

का.आ. 3001.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 (यथा संशोधित 1987,) के नियम 10 (4) के अनुसरण में संचार और सूचना प्रौद्योगिकी मंत्रालय, दूरसंचार विभाग के प्रशासनिक नियंत्रणाधीन निम्नलिखित कार्यालय को, जिसमें 80 प्रतिशत से अधिक कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है।

भारतीय दूरसंचार विनियामक प्रधिकरण (द्वारा) नई दिल्ली

[सं. इ. 11016/1/2007-रा.भा. (पार्ट-I)]

बलराम शर्मा, संयुक्त सचिव (प्रशासन)

MINISTRY OF COMMUNICATIONS AND

INFORMATION TECHNOLOGY

(Department of Telecommunications)

(O.L. Section)

New Delhi, the 3rd October, 2007

S.O. 3001.—In pursuance of rule 10(4) of the Official Language (Use for official purposes of the Union), rules 1976 (as amended-1987), the Central Government hereby notifies the following Office under the administrative control of the Ministry of Communications and Information Technology, Department of Telecommunications where more than 80% of staff have acquired working knowledge of Hindi.

Telecom Regulatory Authority of India (Trai), New Delhi

[No.E.11016/1/2007-O.L. (Part-I)]

BALRAM SHARMA, Joint. Secy. (Admn.)

कार्यिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्यिक और प्रशिक्षण विभाग)

नई दिल्ली, 8 अक्टूबर, 2007

का.आ. 3002.—केन्द्रीय सरकार दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम संख्या 2) की धारा 25 की उपधारा (1-ए) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय अवेषण ब्यूरो के निम्नलिखित अभियोजन अधिकारियों को भारत के किसी भी राज्य अथवा संघ शासित क्षेत्र, जिसमें उपर्युक्त धारा के प्रावधान लागू होते हैं, में सक्षम अधिकारिया वाले न्यायालयों में दिल्ली विशेष पुलिस स्थापना द्वारा प्रवर्तित मामलों का संचालन करने के लिए सहायक लोक अभियोजक के रूप में एतद्वारा नियुक्त करती है :-

सर्वश्री

- | | |
|----------------------------------|----------------------------|
| 1. सुनील वर्मा | 2. बृजेश कुमार यादव |
| 3. श्रीमती शशि विश्वकर्मा | 4. प्रदीप कुमार श्रीवास्तव |
| 5. योगेश शरन त्रिपाठी | 6. शिवनंदा बी. आर. |
| 7. अर्पित अनंत मिश्र | 8. अजय कुमार राव |
| 9. गायकवाड़ प्रशांत कुमार बालीगम | 10. माधवेंद्र सारस्वत |
| 11. सुश्री पुनम गुप्ता | |

[संख्या-225/40/2007-ए.बी.डी.-II]

चन्द्र प्रकाश, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 8th October, 2007

S. O. 3002.—In exercise of the powers conferred by sub-section (1-A) of Section 25 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government

hereby appoints following Prosecuting Officers of the Central Bureau of Investigation as Assistant Public Prosecutor for conducting cases instituted by Delhi Special Police Establishment in the courts of competent jurisdiction in any State or Union Territory of India to which the provision of the aforesaid section apply:-

S/Shri	S/Shri
1. Sunil Verma	2. Brijesh Kumar Yadav
3. Smt. Shashi Vishwakarma	4. Pradeep Kumar Srivastava
5. Yogesh Sharan Tripathi	6. Shivananda B.R
7. Arpit Anant Mishra	8. Ajai Kumar Rao
9. Gaikwad Prashant Kumar Baliram,	10. Madavendra Sarswat
11. Ms. Poonam Gupta.	

[No.225/40/2007-AVD-II]

CHANDRA PRAKASH, Under Secy.

**MINISTRY OF HEALTH AND FAMILY WELFARE
(Department of Health and Family Welfare)**

CORRIGENDUM

New Delhi, the 25th September, 2007

S.O. 3003.—In partial modification to this Department's Notification No. V. 11015/3/2001-ME (Policy-I) dated 30th April, 2001, the entry against the "Bundelkhand University" in column 3 may be read as under:

(f) "MD (Paediatrics)" shall be a recognized medical qualification when granted by M. L. B. Medical College, Jhansi on or after 1982 instead of from May, 1983.

(ii) "DCH" shall be a recognized medical qualification when granted by M. L. B. Medical College, Jhansi on or after 1981 instead of from May, 1982.

[No.U.12012/10/2007-ME(P.II)pt.]

S. K MISHRA, Under Secy.

Foot Note: The principal Notification No. V. 11015/3/2001-ME (Policy-I) dated 30-4-2001 published in Part II, Section 3 of Gazette of India on 29th May, 2003.

कार्यालय मुख्य आयकर आयुक्त

जयपुर, 25 सितम्बर, 2007

सं. 02/2007-08

का.आ. 3004.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961(1961 का 43वां) की धारा 10 के खण्ड (23 सी) की उपधारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्वारा निर्धारण वर्ष 2003-04 एवं आगे के लिए कथित धारा के उद्देश्य से "सोसाइटी फौर एजुकेशन डबलपर्मेट एण्ड रिसर्च इन आर्किटक्चर एण्ड आर्ट, जयपुर" को स्वीकृति देते हैं।

बशर्ते कि समिति आयकर नियम 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उपखण्ड (23 सी) की उपधारा (vi) के प्रावधारों के अनुरूप कार्य करे।

[क्रमांक:मुआआ/अआआ/(समन्वय)जय/10(23सी)(vi)/2007-08]

एस. सी. कपिल, मुख्य आयकर आयुक्त

**OFFICE OF THE CHIEF COMMISSIONER OF
INCOME-TAX**

Jaipur, the 25th September, 2007

No. 02/2007-08

S.O. 3004.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the income-tax Act, 1961(43 of 1961) read with rule 2CA of the income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves "Society for Education Development & Research in Architecture and Art" for the purpose of said section for the A.Y. 2003-04 and onwards.

Provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. CCIT/Addl.CIT(Coord.)/JPR/10 (23c)(vi)/2007-08]

S. C. KAPIL, Chief Commissioner of Income-tax

रेल मंत्रालय

(रेलवे बोर्ड)

नई दिल्ली, 19 सितम्बर, 2007

का.आ. 3005.—राष्ट्रपति, संविधान के अनुच्छेद 309 के परंतुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, रेल सेवा (पेंशन) नियम, 1993 में और संशोधन करने के लिए निम्नलिखित नियम बनाते हैं, अर्थात्:-

(1) इन नियमों का संक्षिप्त नाम रेल सेवा (पेंशन) संशोधन नियम, 2007 है।

(2) ये 23 नवंबर, 2006 से प्रवृत्त होंगे।

2. रेल सेवा (पेंशन) नियम, 1993 में,-

ए. नियम 11 में,-

(i) उप-नियम (1) में,-

(क) "दो वर्ष" शब्दों के स्थान पर "एक वर्ष" शब्द रखे जाएंगे;

(ख) "प्ररूप 18" शब्दों और अंकों के स्थान पर "प्ररूप 1" शब्द और अंक रखे जाएंगे;

(ii) उप-नियम (3) के स्थान पर निम्नलिखित उप-नियम रखा जाएगा, अर्थात् -

"(3) किसी पेंशनभागी को कोई वाणिज्यिक नियोजन ग्रहण करने के लिए उप-नियम (2) के अधीन अनुज्ञा देने या इंकार करने में, सरकार निम्नलिखित तथ्यों को ध्यान में रखेगी, अर्थात् :-

(क) क्या संवर्ग नियंत्रण प्राधिकारी से और उस कार्यालय से जहाँ से वह सेवानिवृत्त हुआ है, अधिकारी से, पश्च सेवानिवृत्ति प्रस्तावित वाणिज्यिक नियोजन के लिए 'अनापेति प्रमाण-पत्र' अभिभाष्ट कर लिया है।

(ख) क्या अधिकारी का अपनी सेवा के अंतिम तीन वर्षों में किसी ऐसी संवेदनशील या सामरिक महत्व की सूचना से संबंध रहा है जिसका प्रत्यक्ष संबंध ऐसे संगठन, जिसमें उसने कार्यभार ग्रहण करने का प्रस्ताव किया है या ऐसे क्षेत्रों में जिसमें उसने प्रैक्टिस अथवा परामर्श सेवाएं देने का प्रस्ताव किया है, के हित या कार्य क्षेत्रों से है।

(ग) क्या जिस कार्यालय में अधिकारी ने अंतिम तीन वर्षों में पद धारित किया हुआ था, उसकी नीतियों और जिस संगठन में वह शामिल होने का प्रस्ताव करता है, उसके द्वारा प्रतिनिधित्व किए जा रहे हितों या कार्यों के बीच हितों में विरोध है या नहीं।

स्पष्टीकरण :—इस खंड के प्रयोजन के लिए “हित में विरोध में सरकार या इसके उपक्रमों के साथ सामान्य आर्थिक प्रतिस्पर्धा शामिल नहीं होगी।

(घ) क्या जिस संगठन में वह शामिल होना चाहता है, उसका किसी भी प्रकार से, भारत के विदेश संबंधों, राष्ट्रीय सुरक्षा और आंतरिक सौहार्द के साथ विरोध रहा है या वह संगठन इन सभी के प्रतिकूल रहा है और क्या वह संगठन किसी भी रूप में अधिसूचना एकत्र करने से संबंधित कोई कार्य कर रहा है।

(ङ) क्या अधिकारी का सेवा अभिलेख, विशेषता: सत्यनिष्ठा और गैर-सरकारी संगठनों के साथ कार्य-व्यवहार के संबंध में, साफ सुधरा है।

(च) क्या प्रस्तावित परिलक्षियां और धनीय प्रसुविधाएं, उद्योग में वर्तमान में प्रचलित परिलक्षियों और आर्थिक लाभों से आधिक्य से दूर है।

स्पष्टीकरण :—इस खंड के प्रयोजन के लिए “आधिक्य से दूर” शब्दों का अर्थ यह नहीं लगाया जाएगा कि इसमें ऐसी प्रसुविधाओं में हुई बद्दोंतरी को भी शामिल किया जाएगा जो उद्योग जगत या समग्र अर्थव्यवस्था में उन्नयन के परिणामस्वरूप दिए जा रहे हों।

(छ) कोई अन्य सुसंगत कारक?

(iii) उप-नियम (6) में “दो वर्षों” शब्दों के स्थान पर “एक वर्ष” शब्द रखे जाएं;

(ख) प्ररूप 1 में, —

(i) शीर्षक में “दो वर्षों” शब्दों के स्थान पर “एक वर्ष” शब्द रखे जाएं;

(ii) क्रम सं. 7 में खंड (ग) के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् :—

(ग) क्या अधिकारी का, अपने सेवाकाल के अंतिम तीन वर्षों के दौरान उस फर्म या कंपनी या सहकारी संस्था इत्यादि से कोई कार्य-व्यवहार रहा था।”

(iii) क्रम सं. 9 के स्थान पर निम्नलिखित रखा जाएगा, अर्थात् :—

“9. घोषणा:—

मैं यह घोषणा करता हूं कि —

(क) वह नियोजन, जिसे मैं प्राप्त करना चाहता हूं, मैं ऐसे क्रियाकलाप अंतर्निहित नहीं होंगे जो भारत के विदेश संबंधों, राष्ट्रीय सुरक्षा और आंतरिक सौहार्द के प्रतिकूल हों। इसमें मेरे द्वारा पिछले तीन वर्षों के दौरान धारित पद या कार्यालय की नीतियों के साथ हितों का टकराव नहीं होगा और वह संगठन, जिसमें मैं सम्मिलित होना चाहता हूं, द्वारा प्रतिनिधित्व किए जा रहे हित अथवा किए जा रहे कार्य के कारण मेरा सरकार के कार्यकरण के साथ विरोध नहीं होगा।

(ख) मैं अपनी सेवा के अंतिम तीन वर्षों के दौरान ऐसी किसी संवेदनशील या सामरिक महत्व की सूचना से संबंधित नहीं रहा जो उस संगठन, जिसमें मैं कार्य करना चाहता हूं, के हित क्षेत्रों या कार्य से जुड़ी हो अथवा ऐसे क्षेत्र से जुड़ी हो जिसमें मैं प्रैक्टिस करना चाहता हूं या परामर्शी सेवा देना चाहता हूं।

(ग) मेरा सेवा अभिलेख, विशेषता: सत्यनिष्ठा और गैर-सरकारी संगठनों के साथ कार्य-व्यवहार के संबंध में, साफ-सुधरा है।

(घ) सरकार द्वारा किसी भी प्रकार की आपत्ति करने पर मैं वाणिज्यिक नियोजन छोड़ने के लिए सहमत हूं।

पता

स्थान

तारीख

आवेदक के हस्ताक्षर”

व्याख्यात्मक ज्ञापन

1. रेल सेवा (पेंशन) नियम, 1993 3 दिसंबर, 1993 से प्रभावी है।
2. कार्मिक और प्रशिक्षण विभाग की अधिसूचना सं. का.आ 723(अ), तारीख 23 नवम्बर 2006 द्वारा भारत के राजपत्र में प्रकाशित अधिसूचना के साथ एकरूपता बनाए रखने के लिए इस अधिसूचना को 23 नवम्बर, 2006 से भूतलक्षी प्रभाव से दिया जा रहा है।
3. उक्त नियमों में संशोधन से किसी भी व्यक्ति के हित पर कोई भी प्रतिकूल प्रभाव नहीं पड़ेगा।

[फा. सं. ई (जी)/2007/एम 1/1]

मैथ्यू जोन, सचिव (रेलवे बोर्ड)

टिप्पणी:—रेल सेवा (पेंशन) नियम, 1993 भारत के राजपत्र में तारीख 3 दिसंबर 1993 के कानूनी आदेश सं. 930 के अंतर्गत प्रकाशित किए गए थे और तत्पश्चात्वर्ती संशोधन निम्नलिखित कानूनी आदेश सं. द्वारा किए गए —

1. कानूनी आदेश सं. 511, तारीख 25 फरवरी, 1995
2. कानूनी आदेश सं. 1026, तारीख 15 अप्रैल, 1995
3. कानूनी आदेश सं. 1554, तारीख 15 जुलाई, 2000
4. कानूनी आदेश सं. 1553, तारीख 15 जुलाई, 2000

5. कानूनी आदेश सं. 1081, तारीख 30 मार्च, 2002
6. कानूनी आदेश सं. 1214 (अ), तारीख 4 नवंबर, 2004
7. कानूनी आदेश सं. 1488 (अ), तारीख 30 दिसंबर, 2003
8. कानूनी आदेश सं. 3191, तारीख 18 दिसंबर, 2004
9. कानूनी आदेश सं. 399, तारीख 5 फरवरी, 2005
10. कानूनी आदेश सं. 1001, तारीख 19 मार्च, 2005
11. कानूनी आदेश सं. 1306, तारीख 8 अप्रैल, 2006

**MINISTRY OF RAILWAYS
(Railway Board)**

New Delhi, the 19th September, 2007

S.O. 3005.— In exercise of the powers conferred by the proviso to article 309 of the Constitution, the President hereby makes the following rules further to amend the Railway Services (Pension) Rules, 1993, namely :-

(1) These rules may be called the Railway Services (Pension) Amendment Rules, 2007.

(2) They shall be deemed to have come into force from the 23rd day of November, 2006.

2. In the Railway Services (Pension) Rules 1993,-

A. In rule 11,-

(i) in sub-rule (1),-

(a) for the word "two years", the words "one year" shall be substituted;

(b) for the word and figures "Form 18" the word and figure "Form 1" shall be substituted;

(ii) for sub-rule (3), the following sub-rule shall be substituted, namely:-

"(3) In granting or refusing permission under sub-rule (2) to a pensioner for taking up any commercial employment, the Government shall have regard to the following factors, namely:-

(a) Whether a 'No Objection' for the proposed post retirement commercial employment has been obtained from the cadre controlling authority and from the office where the officer retired.

(b) Whether the officer has been privy to sensitive or strategic information in the last three years of his service which is directly related to the areas of interest or work of the organisation which he proposes to join or the areas in which he proposes to practice or consult.

(c) Whether there is conflict of interest between the policies of the office he has held in the last three years

and the interest represented or work undertaken by the organisation he proposes to join.

Explanation :- For the purposes of this clause, "conflict of interest" shall not include normal economic competition with the Government or its undertakings.

(d) Whether the organisation he proposes to join has been known to be in any way in conflict with or prejudicial to India's foreign relations, national security and domestic harmony, and whether the organisation is undertaking any activity for intelligence gathering.

(e) Whether service record of the officer is clear, particularly with respect to integrity and dealings with non-Government organisations.

(f) Whether the proposed emoluments and pecuniary benefits are far in excess of those currently prevailing in the industry.

Explanation :- For the purposes of this clause, the words "far in excess", shall not be construed as to cover increase in such benefit that may be as a result of buoyancy in industry or in the economy as a whole.

(g) Any other relevant factor";

(iii) in sub-rule (6), for the words "two years", the words "one year" shall be substituted;

(B) in FORM 1,-

(i) in the heading, for the words "TWO YEARS", the words "ONE YEAR" shall be substituted;

(ii) in serial number 7, for clause (c), the following shall be substituted, namely:-

"(c) Whether the officer had during the last three years of his official career any dealings with the firm or company or Co-operative Society, etc.";

(iii) for serial number 9, the following shall be substituted, namely:-

"9. Declaration:-"

I hereby declare that—

(a) The employment, which I propose to take up will not involve activities prejudicial to India's foreign relations, national security and domestic harmony. It will not involve conflict of interest with the policies of the office held by me during the last three years; and the interest represented or work undertaken by the organisation. I propose to join will not bring me into conflict with the working of the Government.

(b) I have not been privy to sensitive or strategic information in the last three years of service, which is directly related to the areas of interest or work of the organisation that I propose to join or to the areas in which I propose to practice or consult.

(c) My service record is clear, particularly with respect to integrity and dealings with Non-Government Organisation.

(d) I agree to withdraw from the commercial employment in case of any objection by the Government.

Address

Place

Dated

Signature of applicant."

EXPLANATORY MEMORANDUM

1. The Railway Services (Pension) Rules, 1993 came into force on the 3rd December, 1993.

2. In order to maintain uniformity with the Department of Personnel and Training's Notification on the issue published in the Gazette of India, vide number S.O. 723 (E), dated the 23rd November, 2006, this notification is given retrospective effect from the 23rd November, 2006.

3. The amendments to the said rules with retrospective effect will not adversely affect the interest of any person.

[File No.E(G)/2007/EM1/1]

MATHEW JOHN, Secy./Railway Board

Note:- The Railway Services (Pension) Rules, 1993 were published in the Gazette of India, Extraordinary, vide number S.O. 930, dated the 3rd December, 1993 and subsequently amended vide notification numbers:-

1. S.O. 511, dated the 25th February, 1995.
2. S.O. 1026, dated the 15th April, 1995.
3. S.O 1554, dated the 15th July, 2000.
4. S.O. 1553, dated the 15th July, 2000.
5. S.O. 1081, dated the 30th March, 2002.
6. S.O. 1214(E), dated the 4th November, 2004.
7. S.O. 1488(E), dated the 30th December, 2003.
8. S.O. 3191, dated the 18th December, 2004.
9. S.O. 399, dated the 5th February, 2005.
10. S.O. 1001, dated the 19th March, 2005.
11. S.O. 1306, dated the 8th April, 2006.

नई दिल्ली; 3 अक्टूबर, 2007

का.आ. 3006.— रेल मंत्रालय (रेलवे बोर्ड), राजभाषा नियम 1976 (संघ के शासकीय प्रयोजनों के लिए प्रयोग) के नियम 10 के उपनियम (2) और (4) के अनुसरण में दक्षिण-पूर्व रेलवे के गंची मंडल के वरिष्ठ सेक्षन हंजीनियर (रेलपथ) कार्यालय, टाटी सिलवे, वरिष्ठ सेक्षन हंजीनियर(कार्य) कार्यालय, हटिया तथा थाना प्रभारी कार्यालय (रेल सुरक्षा बल), हटिया, जहाँ 80% से अधिक अधिकरियों/कर्मचारियों ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को एतद्वारा अधिसूचित करता है।

[सं. हिन्दी-2007/रा.भा. 1/12/3]

कृष्ण शर्मा, संयुक्त निदेशक (राजभाषा)

New Delhi, the 3rd October, 2007

S. O. 3006.— Ministry of Railways (Railway Board), in pursuance of sub-rule (2) and (4) of Rule 10 of the Official Languages (use for official purposes of the union) Rules, 1976, hereby, notify the Office of Senior Section Engineer (Track) Tati silwai, Senior Section Engineer (Works), Hatia and Office of the incharge of Police Station (R.P.F), Hatia of Ranchi Division of South-Eastern Railway, where 80% or more Officers/Employees have acquired the working knowledge of Hindi.

[No. Hindi-2007/O.L.1/12/3]

KRISHNA SHARMA, Jt. Director (O.L)

कोयला मंत्रालय

नई दिल्ली, 8 अक्टूबर, 2007

का.आ. 3007.— दिनांक 5 मई, 2007 को भारत के राजपत्र के भाग-II, खंड-3, उपखंड (ii) के पृष्ठ सं. 2769 पर प्रकाशित दिनांक 27 अप्रैल, 2007 की भारत सरकार में कोयला मंत्रालय की अधिसूचना संख्या का.आ. 1280 के मूल पाठ में, तालिका में क्रम सं. 1 और 2 के लिए क्रम सं. 49 और 50 प्रतिस्थापित किया जाएगा।

[फा.सं. 43022/5/93- एलएसडब्ल्यू/पीआरआईटीसी]

एम. शाहाबुदीन, अवर सचिव

MINISTRY OF COAL

New Delhi, the 8th October, 2007

S.O. 3007.—In the English version of the notification of the Government of India in the Ministry of Coal Number S.O. 1280 dated the 27th April, 2007, published at page 2769 of the Gazette of India, Part-II, Section-3, sub-section(ii) dated the 5th May, 2007, in the table, for serial numbers 1 and 2, serial numbers 49 and 50, shall be substituted.

[F. No.43022/5/93-LSW/PRIW-I]

M. SHAHABUDEEN, Under Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय
(उपभोक्ता मामले विभाग)

भारतीय मानक व्यूरो

नई दिल्ली, 25 सितम्बर, 2007

का.आ. 3008.— भारतीय मानक व्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतदद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया किये गये हैं:

अनुसूची

सं. सं. संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि	
(1)	(2)	(3)	(4)
1. 303: 1989	संख्या 6, अगस्त 2007	20 सितम्बर 2007	
2. 848: 2006	संख्या 1, अगस्त 2007	20 सितम्बर 2007	
3. 851: 1978	संख्या 2, अगस्त 2007	31 अगस्त 2007	
4. 1328: 1986	संख्या 6, अगस्त 2007	20 सितम्बर 2007	

इस संशोधन की प्रति भारतीय मानक व्यूरो मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तपुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ : सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

BUREAU OF INDIAN STANDARDS

New Delhi, the 25th September, 2007

S.O. 3008.— In pursuance of clause (b) of sub-rule (1) of Rules (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987 the Bureau of Indian Standards hereby notifies that amendment to the Indian Standard, particulars of which are given in the Schedule hereto annexed have been issued:

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1. 303: 1989	No. 6, August 2007	20 September 2007	
2. 848: 2006	No. 1, August 2007	20 September 2007	
3. 851: 1978	No. 2, August 2007	31 August 2007	
4. 1328: 1986	No. 6, August 2007	20 September 2007	

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-11 0002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: CED/Gazette]

A. K. SAINI, Scientist F & Head (Civil Engg.)

नई दिल्ली, 25 सितम्बर, 2007

का.आ. 3009.—भारतीय मानक व्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं:

अनुसूची

क्रम सं.	संशोधित भारतीय मानक (कों) की संख्या और वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 5613(भाग 2/अनुभाग 2): 1985 की संशोधन संख्या 1	1, सितम्बर 2007	30 सितम्बर 2007

इन भारतीय संशोधन की प्रतियां भारतीय मानक व्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली- 110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कलोकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, नागपुर, कानपुर, पटना, पुणे तथा तिरुवनन्तपुरम में विक्री हेतु उपलब्ध हैं।

[संदर्भ : ई टी 37/टी-29]

पी. के. मुखर्जी, वैज्ञानिक 'एफ' एवं प्रमुख (विद्युत-तकनीकी)

New Delhi, the 25th September, 2007

S.O. 3009.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued:

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and Year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 5613 (part 2/Sec 2) : 1985 Code of practice for design installation and maintenance of overhead lines Part 2 Lines above 11 kV and up to and including 220 kV, Sec 2 Installation and maintenance	1, September 2007	30 September, 2007

Copy of this Amendment is available with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref:ET 37/T-29]

P. K. MUKHERJEE, Scientist F & Head (Electro-technical)

नई दिल्ली, 25 सितम्बर, 2007

का.आ. 3010.—भारतीय मानक व्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं:

अनुसूची

क्रम सं.	संशोधित भारतीय मानक (कों) की संख्या और वर्ष और शीर्षक	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 10810(भाग 33) : 1984 की संशोधन संख्या 2	2, सितम्बर 2007	30 सितम्बर, 2007

इन भारतीय संशोधनों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, नागपुर, कानपुर, पटना, पुणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : ई टी 9/टी-86 (33)]

पी. के. मुखर्जी, वैज्ञानिक 'एफ' एवं प्रमुख (विद्युत-तकनीकी)

New Delhi, the 25th September, 2007

S.O. 3010.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued:

SCHEDULE

Sl. No.	No. any year of the Indian Standards	No. and Year of the Amendment	Date from which the Amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 10810 (Part 33) : 1984 Methods of Test for Cables Part 47 Impulse Test	2 September, 2007	30 September 2007

Copy of this Amendment is available with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-1 10 002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: ET 9/T-86(33)]

P. K. MUKHERJEE, Sc. F & Head (Electro-technical)

नई दिल्ली, 28 सितम्बर, 2007

का.आ. 3011.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं:

अनुसूची

क्रम सं.	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 4544 : 2000 आमोनिया-सुरक्षा संहिता	संशोधन सं. नं. 1 अगस्त 2007	31 अगस्त 2007
2.	आई एस 10245 (भाग 1) : 1996 श्वसन उपकरण भाग 1 बंद परिपथ श्वसन उपकरण (संपीडित ऑक्सीजन सिलिंडर) - विशिष्ट (पहला पुनरीक्षण)	संशोधन संख्या न. 1 सितम्बर 2007	30 सितम्बर 2007
3.	आई एस 14200 : 2000 हाईड्रोजन पर ऑक्साईड सुरक्षा संहिता	संशोधन संख्या न. 1 अगस्त 2007	31 अगस्त 2007
4.	आई एस 14572 : 1998 क्लोराफॉर्म - सुरक्षा संहिता	संशोधन संख्या न. 2 अगस्त 2007	31 अगस्त 2007
5.	आई एस 14814 : 2000 एसीटिलीन - सुरक्षा संहिता	संशोधन संख्या न. 1 अगस्त 2007	31 अगस्त 2007

इन मानकों की प्रतियाँ भारतीय मानक ब्यूरो मानक भवन 9 बहादुर शाह जफर मार्ग नई दिल्ली- 110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, नागपुर, कानपुर, पटना, पुणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सीएचडी 8/आईएस 4544 एवं अन्य]

ई. देवेन्द्र, वैज्ञानिक-एफ (रसायन)

New Delhi, the 28th September, 2007

S.O. 3011.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued:

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 4544:2000 Ammonia- Code of Safety (First Revision)	Amendment No. 1, August 2007	31 August 2007
2.	IS 10245 (Part 1) : 1996 Breathing Apparatus Part 1 Closed Circuit Breathing Apparatus (Compressed Oxygen Cylinder) Specification First/Revision)	Amendment No. 1, September 2007	30 September 2007
3.	IS 14200:2000 Hydrogen Peroxide-Code of Safety	Amendment No. 1, August 2007	31 August 2007
4.	IS 14572:1998 Chloroform-Code of Safety	Amendment No. 2, August 2007	31 August 2007
5.	IS 14814:2000 Acetylene-Code of Safety	Amendment No. 1, August 2007	31 August 2007

Copy of these Standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-I 10 002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref : CHD 8/IS 4544 and Others]

E. DEVENDAR, Scientist-F (Chemical)

नई दिल्ली, 28 सितम्बर, 2007

का।आ. 3012.—भारतीय मानक व्यूरो नियम 1987, के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं:

अनुसूची

क्रम सं.	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 15573: 2005 पॉलीऐलुमिनियम क्लोराइड	संशोधन सं. 1 जुलाई 2007	31 अगस्त 2007

इस मानक की प्रतियों भारतीय मानक व्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली- 110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सीएचडी 13/आईएस 15573]

ई. देवेन्द्र, वैज्ञानिक-एफ (रसायन)

New Delhi, the 28th September, 2007

S.O. 3012.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued:

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 15573:2005 Polyaluminium Chloride	Amendment No. 1 July, 2007	31 August 2007

Copy of this standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-1 10 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref:CHD 13/IS 15573]

E. DEVENDAR, Scientist-F (Chemical)

नई दिल्ली, 28 सितम्बर, 2007

का.आ. 3013.—भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं:

अनुसूची

क्रम सं.	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 2838 : 1964 सामान्य प्रयोजनों के लिए स्टोनवेर के धारकों की विशिष्टि	संशोधन सं. 2, जून 2007	30 जून 2007
2.	आई एस 2839 : 1964 औद्योगिक स्टोनवेर सामान की विशिष्टि	संशोधन सं. 3, जून 2007	30 जून 2007
3.	आई एस 2840 : 2002 सिरामिक उद्योग के लिए चीनी मिट्टी-विशिष्टि (दूसरा पुनरीक्षण)	संशोधन सं. 1, जून 2007	30 जून 2007
4.	आई एस 3972 (भाग 2/खंड 1):1985 काँच इनेमल माण्ड के परीक्षण की पद्धतियाँ भाग 2 परीक्षण पद्धतियाँ खंड 1 कक्ष तापमान और क्वथनांक तापमान पर साइट्रिक अम्ल की प्रतिरोधिता	संशोधन सं. 1, जून 2007	30 जून 2007
5.	आई एस 4589:2002 सिरामिक उद्योग के लिए प्लास्टिक मिट्टी संशोधन सं. 1, जून 2007 और प्रक्षलित प्लास्टिक मिट्टी-विशिष्टि (तीसरा पुनरीक्षण)	संशोधन सं. 1, जून 2007	30 जून 2007
6.	आई एस 7087:1979 सिरैमिक टॉवर पैरिंग की विशिष्टि	संशोधन सं. 2, जून 2007	30 जून 2007
7.	आई एस 8687(भाग 1):1977 कॉचाभ विट्रियस इनैमल और फ्रिट की परीक्षण पद्धतियाँ भाग 1 छलनी विशलेषण	संशोधन सं. 1, जून 2007	30 जून 2007
8.	आई एस 8687(भाग 2):1977 कॉचाभ विट्रियस इनैमल और फ्रिट की परीक्षण पद्धतियाँ भाग 2 संलग्न प्रवाह परीक्षण	संशोधन सं. 1, जून 2007	30 जून 2007
9.	आई एस 8709:1977 कॉचांभ विट्रियस के इनैमल लेपन के रंग धारण की परीक्षण पद्धति	संशोधन सं. 1, जून 2007	30 जून 2007

(1)	(2)	(3)	(4)
10.	आई एस 10429:1982 सिरेमिक उद्योग के लिए पाउडर टेल्क की विशिष्टि	संशोधन सं. 1, जून 2007	30 जून 2007
11.	आई एस 11464:1985 सिरेमिक उद्योग के लिए स्फटिक (क्वार्टज) की विशिष्टि	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007
12.	आई एस 11477:1985 सिरेमिक उद्योग के लिए प्रोफीलाइट की विशिष्टि	संशोधन सं. 1, जून 2007	30 जून 2007
13.	आई एस 11643:1985 आबद्धित अपघर्षक उत्पादों के लिए सिलिकॉन कार्बाइड की विशिष्टि	संशोधन सं. 1, जून 2007	30 जून 2007
14.	आई एस 12621:1988 बेन्टोनाइट, सिरामिक उद्योग के लिए-विशिष्टि	संशोधन सं. 1, जून 2007	30 जून 2007
15.	आई एस 12928:1990 अवक्षेपित बेरियम कार्बोनेट चीनी मिट्टी तथा शीशा उद्योग के लिए-विशिष्टि	संशोधन सं. 1, जून 2007	30 जून 2007
16.	आई एस 13273:1991 पानी संग्रहण हीटर के लिए काँचाभ इनैमलकृत भीतरी टंकियाँ-विशिष्टि	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007

इन मानकों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली- 110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सीएचडी 9/टी-2838]

ई. देवेन्द्र, वैज्ञानिक-एफ (रसायन)

New Delhi, the 28th September, 2007

S.O. 3013.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued:

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 2838: 1964 Specification for stoneware containers for general purposes	Amendment No.2, June 2007	30 June 2007
2.	IS 2839: 1964 Specification for industrial stoneware	Amendment No.3, June 2007	30 June 2007
3.	IS 2840:2002 China clay for ceramic industry - Specification (Second Revision)	Amendment No.1, June 2007	30 June 2007
4.	IS 3972 (Part 2/ Sec 1):1985 Methods of test for vitreous enamelware Part 2 Test Methods Section I Resistance to Citric Acid at Room Temperature and Boiling Temperature (First Revision)	Amendment No. 1, June 2007	30 June 2007

(1)	(2)	(3)	(4)
5.	IS 4589:2002 Plastic clay and washed plastic clay for ceramic industry - Specification (Third Revision)	Amendment No.1, June 2007	30 June 2007
6.	IS 7087: 1979 Specification for ceramic tower packings (First Revision)	Amendment No.2, June 2007	30 June 2007
7	IS 8687(Part 1): 1977 Methods of test for vitreous enamels and frits Part 1 Sieve analysis	Amendment No.1, June 2007	30 June 2007
8.	IS 8687(Part 2): 1977 Methods of test for vitreous enamels and frits Part 2 Fusion flow test	Amendment No.1, June 2007	30 June 2007
9.	IS 8709: 1977 Method of test for colour retention of vitreous enamel coatings	Amendment No.1, June 2007	30 June 2007
10.	IS 10429:1982 Specification for powdered talc for ceramic industry	Amendment No.1, June 2007	30 June 2007
11.	IS 11464: 1985 Specification for quartz. for ceramic industry	Amendment No.1, July 2007	31 July 2007
12.	IS 11477:1985 Specification for pyrophyllite for ceramic industry	Amendment No.1, June 2007	30 June 2007
13.	IS 11643:1985 Specification for silicon carbide for bonded abrasive products	Amendment No.1, June 2007	30 June 2007
14.	IS 12621:1988 Bentonite for ceramic industry - Specification	Amendment No.1, June 2007	30 June 2007
15.	IS 12928:1990 Precipitated barium carbonate for ceramic and glass industr -Specification	Amendment No. 1, June 2007	30 June 2007
16.	IS 13273:1991 Vitreous enamelled inner tanks for storage water heater-Specification	Amendment No.1, July 2007	31 July 2007

Copy to these standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram

[Ref: CHD 9/T-2838]

E. DEVENDAR, Scientist- F (Chemical)

नई दिल्ली, 28 सितम्बर, 2007

का.आ. 3014.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (को) में संशोधन किया गया/किये गये हैं:

अनुसूची

क्रम सं.	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 1061:1997 फिनोलिक टाईप रोगाण्याशी प्रवाह-विशिष्टि (चौथा पुनरीक्षण)	संशोधन सं. 2, जुलाई 2007	30 नवम्बर 2007
2.	आई एस 7597:2001 सतही क्रियाशील अभिकर्ता-निर्बंधन की शब्दावली (प्रथम पुनरीक्षण)	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007

इन मानकों की प्रतियाँ भारतीय मानक ब्यूरो मानक भवन 9 बहादुर शाह जफर मार्ग नई दिल्ली- 110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनंतपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सीएचडी 25/टी-1061]

ई. देवेन्द्र, वैज्ञानिक-एफ (रसायन)

New Delhi, the 28th September, 2007

S.O. 3014.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued:

SCHEDULE

Sl. No.	No. and title of the Indian Standards	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 1061: 1997 Disinfectant fluids, phenolic type-Specification (Fourth Revision)	Amendment No.2, July 2007	30 November 2007
2.	IS 7597: 2001 Surface active agents-Glossary of terms (First Revision)	Amendment No.1, July 2007	31 July 2007

Copy to these standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: CHD 25/T-1061]

E. DEVENDAR, Scientist-F (Chemical)

नई दिल्ली, 28 सितम्बर, 2007

का.आ. 3015.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (कों) में संशोधन किया गया/किये गये हैं:

अनुसूची

क्रम सं.	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 878 : 1975 आंशकित मापन सिलिंडरों की विशिष्टि (प्रथम पुनरीक्षण)	संशोधन सं. 2, जुलाई 2007	15 सितम्बर 2007
2.	आई एस 1381 (भाग 2): 1977 व्यवस्थन फलास्क की विशिष्टि-भाग 2 शंखवाकार घिसे सॉकेट सहित फलास्क (प्रथम पुनरीक्षण)	संशोधन सं. 2, जुलाई 2007	31 जुलाई 2007

(1)	(2)	(3)	(4)
3.	आई एस 1574 : 1980 काँच की मापन बोतलों की विशिष्टि (प्रथम पुनरीक्षण)	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007
4.	आई एस 1662 : 1974 शारब हेतु काँच की बोतलों की विशिष्टि (द्वितीय पुनरीक्षण)	संशोधन सं. 2, जुलाई 2007	31 जुलाई 2007
5.	आई एस 1961 : 1968 काँच के टेबलवेयर की विशिष्टि (प्रथम पुनरीक्षण)	संशोधन सं. 3, जुलाई 2007	31 जुलाई 2007
6.	आई एस 1975 : 1984 रेलवे में प्रयुक्त सिग्नल राउंडल्स एवं लैंसों की विशिष्टि (प्रथम पुनरीक्षण)	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007
7.	आई एस 1957 : 1982 ब्यूरेट की विशिष्टि (द्वितीय पुनरीक्षण)	संशोधन सं. 2, जुलाई 2007	31 अगस्त 2007
8.	आई एस 2091 : 1983 बीयर हेतु काँच की मल्टी-ट्रिप बोतलों की विशिष्टि (द्वितीय पुनरीक्षण)	संशोधन सं. 2, जुलाई 2007	31 जुलाई 2007
9.	आई एस 2619 : 1993 काँच के बीकर-विशिष्टि (द्वितीय पुनरीक्षण)	संशोधन सं. 1, जुलाई 2007	31 अगस्त 2007
10.	आई एस 2620 : 1963 आस्कन फलास्क की विशिष्टि	संशोधन सं. 2, जुलाई 2007	31 जुलाई 2007
11.	आई एस 2626 : 1972 पेट्रोडिशंस की विशिष्टि (प्रथम पुनरीक्षण)	संशोधन सं. 2, जुलाई 2007	31 जुलाई 2007
12.	आई एस 4161 : 1967 नैसलर सिलिंडर की विशिष्टि	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007
13.	आई एस 4162 (भाग 1) : 1985 अंशांकित पिपेट की विशिष्टि भाग 1 सामान्य अपेक्षाएँ (प्रथम पुनरीक्षण)	संशोधन सं. 2, जुलाई 2007	31 जुलाई 2007
14.	आई एस 4162 (भाग 1) : 1985 अंशांकित पिपेट की विशिष्टि भाग 2 पिपेट जिसके लिए कोई प्रतीक्षा समय निर्दिष्ट न हो (प्रथम पुनरीक्षण)	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007
15.	आई एस 4162 (भाग 3) : 1985 अंशांकित पिपेट की विशिष्टि भाग 3 पिपेट जिसके लिए प्रतीक्षा समय 15 से निर्दिष्ट हो (प्रथम पुनरीक्षण)	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007
16.	आई एस 4162 (भाग 4) : 1985 अंशांकित पिपेट की विशिष्टि भाग 4 ब्लॉ आउट पिपेट (प्रथम पुनरीक्षण)	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007
17.	आई एस 4610 : 1968 सामान्य प्रयोजन के लिए काँच की नली तथा संदर्भ थर्मामीटर की विशिष्टि	संशोधन सं. 2, जुलाई 2007	31 जुलाई 2007
18.	आई एस 5715 : 1986 काँच के कारब्बॉयस् की विशिष्टि (प्रथम पुनरीक्षण)	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007
19.	आई एस 6128 : 1971 डेसीकेटो की विशिष्टि	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007
20.	आई एस 6917 : 1973 ऑटोमोबाइल हेडलाइट (बदलने योग्य बल्ब टाइप) के लिए काँच के लैंसों की विशिष्टि	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007
21.	आई एस 7374 : 1974 प्रयोगशाला के काँच के सामान के लिए काँच की छड़े और ट्यूबिंग	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007
22.	आई एस 9213 : 1979 बीओडी बोतलों की विशिष्टि	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007
23.	आई एस 10640 : 1983 सॉक्सलेट निष्कर्षक की विशिष्टि	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007

(1)	(2)	(3)	(4)
24.	आई एस 11984 : 1986 मुक्त प्रवाही द्रव के लिए कांच की बोतलों की विशिष्टि	संशोधन सं. 2, जुलाई 2007	31 जुलाई 2007
25.	आई एस 11990 : 1986 गैस धुलाई की बोतलों की विशिष्टि	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007
26.	आई एस 12581 : 1989 घरों में फल संरक्षण के लिये काँच के धारकों की विशिष्टि	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007
27.	आई एस 13650 : 1993 प्रोटीन युक्त खाद्य पदार्थों के लिए काँच के आधान	संशोधन सं. 1, जुलाई 2007	31 जुलाई 2007
28.	आई एस 5168 : 1969 दूध पिलाने हेतु कांच की फीडिंग बोतलों की विशिष्टि	संशोधन सं. 2, जुलाई 2007	31 जुलाई 2007

इन मानकों की प्रतियाँ भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर, मार्ग नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सीएचडी 10/टी-878]
ई. देवेन्द्र, वैज्ञानिक-एफ (रसायन)

New Delhi, the 28th September, 2007

S.O. 3015.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and title of the Indian Standards	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 878:1975 Specification for graduated measuring cylinders (First Revision)	Amendment No.2, July 2007	15 September 2007
2.	IS 1381 (Part 2): 1977 Specification for boiling flasks Part 2 Flasks with conical ground socket (First revision)	Amendment No.2, July 2007	31 July 2007
3.	IS 1574:1980 Specification for glass weighing bottles (First revision)	Amendment No.1, July 2007	31 July 2007
4.	IS 1662:1974 Specification for glass liquor bottles (Second revision)	Amendment No.2, July 2007	31 July 2007
5.	IS 1961: 1968 Specification for glass tableware (First revision)	Amendment No.3, July 2007	31 July 2007
6.	IS 1975:1984 Specification for signal roundels and lenses for use in railways (First revision)	Amendment No.1, July 2007	31 July 2007
7.	IS 1997:1982 Specification for burettes (Second revision)	Amendment No.2, July 2007	31 August 2007
8.	IS 2091:1983 Specification for multi-trip glass beer bottles (Second revision)	Amendment No.2, July 2007	31 July 2007
9.	IS 2619:1993 Glass beakers - Specification (Second Revision)	Amendment No.1, July 2007	31 August 2007
10.	IS 2620:1963 Specification for distilling flasks	Amendment No.2, July 2007	31 July 2007

(1)	(2)	(3)	(4)
11.	IS 2626:1972 Specification for Petri dishes (First revision)	Amendment No.2, July 2007	31 July 2007
12.	IS 4161:1967 Specification for nessler cylinders	Amendment No.2, July 2007	31 July 2007
13.	IS 4162 (Part 1):1985 Specification for graduated pipettes Part 1 General requirements (First revision)	Amendment No.1, July 2007	31 July 2007
14.	IS 4162 (Part 2):1985 Specification for graduated pipettes Part 2 Pipettes for which no waiting time is specified (First revision)	Amendment No.1, July 2007	31 July 2007
15.	IS 4162 (Part 3):1985 Specification for graduated pipettes Part 2 Pipettes for which a waiting time of 15s is specified (First revision)	Amendment No.1, July 2007	31 July 2007
16.	IS 4162 (Part 4):1985 Specification for graduated pipettes Part 2 Blow-out pipettes (First revision)	Amendment No.1, July 2007	31 July 2007
17.	IS 4610:1968 Specification for glass tubes for general purpose and reference thermometers	Amendment No.2, July 2007	31 July 2007
18.	IS 5715:1986 Specification for glass carboys (First revision)	Amendment No.1, July 2007	31 July 2007
19.	IS 6128:1971 Specification for desiccators	Amendment No.1, July 2007	31 July 2007
20.	IS 6917:1973 Specification for glass lenses for automobile headlights (Replaceable bulb)	Amendment No.1, July 2007	31 July 2007
21.	IS 7374:1974 Specification for glass rods and tubing for laboratory glassware	Amendment No.1, July 2007	31 July 2007
22.	IS 9213:1979 Specification for BOD bottles	Amendment No. 1, July 2007	31 July 2007
23.	IS 10640:1983 Specification for soxhlet extractors	Amendment No.1, Jul 2007	31 July 2007
24.	IS 11984:1986 Specification for glass bottles for free flowing liquids	Amendment No.2, July 2007	31 July 2007
25.	IS 11990:1986 Specification for gas washing bottles	Amendment No.1, July 2007	31 July 2007
26.	IS 12581:1989 Glass containers for domestic fruit preserving-Specification	Amendment No.1, July 2007	31 July 2007
27.	IS 13650 : 1993 Glass containers for proteinized food	Amendment No.1, July 2007	31 July 2007
28.	IS 5168:1969 Specification for glass feeding bottles	Amendment No.2, July 2007	31 July 2007

Copy to these standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9 Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram..

[Ref: CHD 10/T-878]
E. DEVENDAR, Scientist-F (Chemical)

नई दिल्ली, 28 सितम्बर, 2007

का. आ. 3016.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिये गये मानक (को) में संशोधन किया गया/किये गये हैं:

अनुसूची

क्रम सं. और वर्ष	संशोधित भारतीय मानक की संख्या	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 11087 : 1986 चुम्बकीय स्थाही के अक्षर पहचान चैक प्रिंटिंग के लिए पेपर की विशिष्टि (प्रथम पुनरीक्षण)	संशोधन संख्या 3, जुलाई, 2007	15 सितम्बर, 2007
2.	आई एस 14490 : 1997 सादा कोपियर कागज—विशिष्टि	संशोधन संख्या 4, जुलाई, 2007	31 अगस्त, 2007
3.	आई एस 14661 : 1999 टॉयलट पेपर—विशिष्टि	संशोधन संख्या 1, जुलाई, 2007	31 जुलाई, 2007

इस मानकों की प्रतियाँ भारतीय मानक ब्यूरो मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली- 110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनंतपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सीएचडी 15/टी-11087]

ई. देवेन्द्र, वैज्ञानिक-एफ (रसायन)

New Delhi, the 28th September, 2007

S.O. 3016.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendments to the Indian Standards, particulars of which are given in the Schedule hereto annexed have been issued :

SCHEDULE

Sl. No.	No. and title of the Indian Standards	No. and year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 11087: 1986 Specification for paper for magnetic ink character recognition cheque printing (first revision)	Amendment No. 3, July, 2007	15 September, 2007
2.	IS 14490: 1997 Plain copier paper—Specification	Amendment No. 4, July, 2007	31 August, 2007
3.	IS 14661: 1999 Toilet paper—Specification	Amendment No. 1, July, 2007	31 July, 2007

Copy of this standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-1 10 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: CHD 15/T-11087]

E. DEVENDAR, Scientist-F (Chemical)

नई दिल्ली, 8 अक्टूबर, 2007

का.आ. 3017.—भारतीय मानक व्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिये गये हैं मानक (को) में संशोधन किया गया/किये गये हैं :

अनुसूची

क्रम सं.	संशोधित भारतीय मानक की संख्या और वर्ष	संशोधन की संख्या और तिथि	संशोधन लागू होने की तिथि
(1)	(2)	(3)	(4)
1.	आई एस 4536 (भाग 2) : 1969 समिक्षा तले के स्टेनलेस इस्पात के पकाने के बत्तेन की विशिष्टि भाग 2 : 3 प्लाई संरचना	संशोधन नं. 2, सितम्बर, 2007	24 सितम्बर, 2007
2.	आई एस 14884 : 2000/आईएसओ 4866 : 1990 यांत्रिक कंपन और प्रधात-इमारतों का कंपन-कंपम मापन के दिशा-निर्देश तथा इमारतों पर उनके प्रभाव का मूल्यांकन	संशोधन नं. 2, अगस्त, 2007	06 सितम्बर, 2007

इस संशोधन की प्रतियाँ भारतीय मानक व्यूरो मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली- 110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनंतपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एमईडी/जी-2 : 1]

सी. के. वेदा, वैज्ञा. एफ एवं प्रमुख (यांत्रिक इंजीनियरिंग)

New Delhi, the 8th October, 2007

S.O. 3017.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that amendment to the Indian Standards, particulars of which are given in the Schedule hereto annexed has been issued :

SCHEDULE

Sl. No.	No. and year of the Indian Standards	No. and Year of the amendment	Date from which the amendment shall have effect
(1)	(2)	(3)	(4)
1.	IS 4536 (Part 2) : 1969 Specification for composite bottom stainless steel cooking utensils Part 2 3 Ply construction	Amendment No. 2, September, 2007	24 September, 2007
2.	IS 14884 : 2000/ISO 4866 : 1990 Mechanical vibration and shock—Vibration of buildings—Guidelines for the measurements of vibrations and evaluation of their effects on buildings	Amendment No. 2, August 2007	24 September, 2007

Copy of this standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-I 10 002 and Regional Offices : New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Punc, Thiruvananthapuram.

[Ref : MED/G-2 : 1]

C. K. VEDA, Sicientist F & Head (Mechanical Engineering)

नई दिल्ली, 8 अक्टूबर, 2007

का.आ. 3018.— भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिये गये हैं वे स्थापित हो गये हैं:—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानक, मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस/आईएसओ 509 : 1996 हैंड पैलेट ट्रक-आयाम	आईएस 5007 : 1988 हैंड पैलेट ट्रक का आयाम का अधिक्रमण	30 सितम्बर 2007
2.	आईएस/आईएसओ 6954 : 2000 यांत्रिक कंपन-यात्री और व्यापारिक जलपोत पर रहने संबंधी कंपन का मापन, रिपोर्टिंग और मूल्यांकन	आईएस 14733 : 1999 यांत्रिक कंपन और प्रवात-व्यापारिक जहाजों में कंपन के समग्र मूल्यांकन की मार्गदर्शिका का अधिक्रमण	30 सितम्बर 2007

इस भारतीय मानक की प्रतियाँ भारतीय मानक ब्यूरो मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चंडीगढ़, चेन्नई, मुम्बई तथा खाली कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बत्तूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनंतपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : एमईडी/जी-2 : 1]

सौ. के. वेदा, वैज्ञ. एफ एवं प्रमुख (यांत्रिक इंजीनियरिंग)

New Delhi, the 8th October, 2007

S.O. 3018.— In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & year of the Indian Standards Established	No. and Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS/ISO 509 : 1996 Hand pallet trucks— Dimensions	Superseding IS 5007 : 1998 Dimensions for hand pallet trucks (first revision)	30 September, 2007
2.	IS/ISO 6954 : 2000 Mechanical vibration— Guidelines for the measurement, reporting and evaluation of vibration with regard to habitability on passenger and merchant ships	Superseding IS 14733 : 1999 Mechanical vibration and shocks-Guidelines for the overall evaluation of vibration in merchant ships.	30 September, 2007

Copy of these standards are available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-1 10 002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref : MED/G-2 : 1]

C. K. VEDA, Sc.-F & Head (Mechanical Engineering)

नई दिल्ली, 8 अक्टूबर, 2007

का.आ. 3019.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम, 4 के उप-नियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृत करे को तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा. मा. संख्या	भाग	आयु	वर्ष
1	2	3	4	5	6	7	8	9
1.	8838097	02-07-07	मैसर्स श्रीकृष्णा इंडस्ट्रीज 192, खूबराम पार्कस, फेस-2, प्रेम नगर-1 नांगलोड़, दिल्ली-110041	बिजली की इस्तरी	366			1991
2.	8839911	03-07-07	मैसर्स डीम होम इलैक्ट्रिकलस के 18 सेक्टर 1 डी एस आई डी सी, औद्योगिक क्षेत्र, बवाना, दिल्ली-110039	बिजली के छत टाइप पंखे और रेयूलेटर	374			1979
3.	8841389	11-07-07	मैसर्स फोइंनीक्स लेम्पस लिमिटेड, ए-1 फेस-2, नोएडा-201301, गौतम बुध नगर, उत्तर प्रदेश	स्वयं बलास्टीड बत्ती सामान्य उपयोग के लिए बत्ती उपकरण सुरक्षा विशिष्ट	15111			2002
4.	8843801	17-07-07	मैसर्स मरस्वती इलैक्ट्रिकल इंडस्ट्रीज (इंडिया), आर जेड-399, विष्णु गार्डन एक्स्टेंशन, नई दिल्ली-110018.	स्टेशनरी स्टोरेज टाईप पानी के हीटर	2082			1993
5.	8847102	30-07-07	मैसर्स सागु इलैक्ट्रिकल इंडस्ट्रीज (इंडिया), पी-33, विष्णु गार्डन, नई दिल्ली-110018.	एक फेस लघु एसी और सार्विक बिजली की मोटर	996			1979
6.	8849914	07-08-07	मैसर्स नीरज सेल्स कार्पोरेशन, 32/127, पहली मंजिल, गली नं. 10, भीखम सिंह कालोनी, विश्वास नगर, दिल्ली	पानी गर्माने के लिए खनिज भरे तापन एलीमेंट	4159			2002

[सं. सीएमडी/13 : 11]

ए. के. तलवार, उप. महानिदेशक (मुहर)

New Delhi, the 8th October, 2007

S.O. 3019.—In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name & Address of the Party	Title of the Standard	IS No.	Part. ;	Sec. ;	Year
1	2	3	4	5	6	7	8	9
1.	8838097	02-07-2007	M/s. Shree Krishna Industries, 192 Khub Ram Park, Phase-II, Prem Nagar-1, Nangloi, Delhi-110041.	Thermostatic Electric Iron	366			1991
2.	8839911	03-07-2007	M/s. Dream Home Electricals, K-18, Sector-I, DSIDC Indl. Area, Bawana, Delhi-110039.	Electric ceiling type fans and regulators	374			1979
3.	8841389	11-07-2007	M/s. Phoenix Lamps Ltd. A-I, Phase-II, NOIDA-201301, Gautam Budha Nagar, Uttar Pradesh.	Self Ballasted Lamps for General Lighting Services—Safety Requirements.	15111	1		2002
4.	8843801	17-07-2007	M/s. Saraswati Electrical Industries (India), RZ-399, Vishnu Garden Extn., New Delhi-110005.	Stationary Storage Type Electric Water Heaters	2082			1993
5.	8847102	30-07-2007	M/s. Saggu Electrical Ind. (Regd.), P-33, Vishnu Garden, New Delhi-110018.	Single-phase small AC and universal electric motors	996			1979
6.	8849914	07-08-2007	M/s. Niraj Sales Corporation, 32/127, First Floor, Gali No. 10, Bhikam Singh Colony, Vishwas Nagar, Distt : Delhi.	Mineral filled sheathed heating elements	4159			2002

[No. CMD/13 : 11]

A. K. TALWAR, Dy. Dir. Genl. (Marks)

नई दिल्ली, 8 अक्टूबर, 2007

का.आ. 3020.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम, 4 के उप-नियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा. मा. संख्या	भाग	अनु.	वर्ष
1	2	3	4	5	6	7	8	9
1.	8829403	01-06-07	पी. के. एस. एन्सपोर्ट प्राइवेट लिमिटेड, ए-63, सेक्टर-63, नोएडा, गोतमबुद्ध नगर	बिजली की वायरिंग के लिए तार नालियाँ	9537	3		1983

1	2	3	4	5	6	7	8	9
2.	8830687	07-06-07	मैसर्स के. जी. एंड क्राउन एप्लायसेंस प्रा. लि. बी-17ए सेक्टर-65, नोएडा-201301	बिजली के छत टाइप पंखे और रेगुलेटर	374			1979
3.	8832186	12-06-07	मैसर्स श्री कृष्णा इंडस्ट्रीज, 192, खूबराम पार्क, फेस-2, प्रेमनगर-1, नागलोई, दिल्ली-110041	एक फेस लघु एसी और सार्विक बिजली की मोटर	996			1979
4.	8833592	14-06-07	मैसर्स अरिहन्त सेल्स कॉर्पोरेशन, 459, प्रथम तल, एफ आई ई पटपडगंज, इंडस्ट्रीयल एरिया, दिल्ली-110092	केबल्स ट्रॉकिंग एंड डिविटिंग सिस्टम्स फॉर इलैक्ट्रिकल्स इन्स्टालेशन	14927	2		2001
5.	8833693	14-06-07	मैसर्स जे एस एंड सन्स, बी-409, सुदर्शन पार्क, मोती नगर, दिल्ली-110015	बिजली के बल्ब	418			2004
6.	8833794	15-06-07	मैसर्स राजीव लैम्प बी-409, भूतल अथवा द्वितीय तल, सुदर्शन पार्क, दिल्ली-110015	बिजली के बल्ब	418			2004
7.	8834796	19-06-07	मैसर्स नीरज सेल्स कॉर्पोरेशन, 32/127, प्रथम तल, गली नं. 10, भीकमसिंह कॉलोनी, विश्वास नगर, दिल्ली-110032	सुरक्षा विशिष्ट- घरेलू और समान बिजली के निमंजन वाटर हीटर	302	2	201	1992
8.	8834897	19/06/07	मैसर्स नीरज सेल्स कॉर्पोरेशन, 32/127, प्रथम तल, गली नं. 10, भीकमसिंह कॉलोनी, विश्वास नगर, दिल्ली-110032	बिजली के निमंजन वाटर हीटर	368			1992
9.	8835596	21/06/07	मैसर्स नीरज सेल्स कॉर्पोरेशन, 32/127, प्रथम तल, गली नं. 10, भीकमसिंह कॉलोनी. विश्वास नगर, दिल्ली-110032	सुरक्षा विशिष्ट घरेलू और समान बिजली की इस्त्री	302	2	3	1992
10.	8836194	22/06/07	मैसर्स श्रीकृष्णा इंडस्ट्रीज, 192, खूबराम पार्क, फेस-2, प्रेम नगर-1, नागलोई, दिल्ली-110041	स्टेशनरी स्टोरेज टाइप पानी के हीटर	2082			1993
11.	8837907	28/06/07	मैसर्स महादेव लैम्प इंडस्ट्रीज डब्ल्यू जेड-271, शकूरपुर गांव, दिल्ली-110034	बिजली के बल्ब	418			2004
12.	8838808	28/06/07	मैसर्स श्रीकृष्णा इंडस्ट्रीज, 192, खूबराम पार्क, फेस-2, प्रेम नगर-1, नागलोई, दिल्ली-110041	सुरक्षा विशिष्ट घरेलू और समान बिजली की इस्त्री	302	2	3	1992

[सं. सीएमडी/13 : 11]

ए. के. तलवार, उप महानिदेशक (मुहर)

New Delhi, the 8th October, 2007

S.O. 3020.— In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name & Address of the Party	Title of the Standard	IS No.	Part.	Sec.	Year
1	2	3	4	5	6	7	8	9
1.	8829403	01-06-2007	P K S Export Pvt. Ltd., A-63, Sector-63, Noida Gautam Budh Nagar	Conduits for electrical installations	9537	3		1983
2.	8830687	07-06-2007	M/s. K.G. & Crown Appliances Pvt. Ltd., B-17, Sector-65, Noida-201301	Electric ceiling type fans and regulators	374			1979
3.	8832186	12-06-2007	M/s. Shree Krishna Industries, 192 Khub Ram Park, Phase-II, Prem Nagar-1, Nangloi, Delhi-110041.	Single-phase small ac and universal electric motors	996			1979
4.	8833592	14-06-2007	M/s Aribant Sales Corporation, 459, First Floor, FIE, Patparganj, Industrial Area, Delhi-110092	Cables trunking and ducting systems for electrical installation	14927	2		2001
5.	8833693	14/06/2007	M/s J.S. & Sales B-409, Sudershan Park, Moti Nagar, Delhi-110015	Tungsten filament general service electric lamps	418			2004
6.	8833794	15-06-2007	M/s Rajiv Lamps B-409, Ground & 2nd Floor, Sudhershan Park, Delhi-110015.	Tungsten filament general service electric lamps	418			2004
7.	8834796	19-06-2007	M/s Niraj Sales Corporation 32/127, First Floor, Gali No. 10, Bhikam Singh Colony, Vishwas Nagar, Delhi-110032	Safety of household and similar electrical appliances—Electric Immersion water heater	302	2	201	1992
8.	8834897	19-06-2007	M/s Niraj Sales Corporation 32/127, First Floor, Gali No. 10, Bhikam Singh Colony, Vishwas Nagar, Delhi-110032	Electric Immersion water heater	368			1992
9.	8835596	21-06-2007	M/s Niraj Sales Corporation 32/127, First Floor, Gali No. 10, Bhikam Singh Colony, Vishwas Nagar, Delhi-110032	Safety of household and similar electrical appliances—Electric Iron	302	2	3	1992
10.	8836194	22-06-2007	M/s Shree Krishna Industries, 192 Khub Ram Park, Phase-II, Prem Nagar-1, Nangloi, Delhi-110041.	Stationary storage type electric water heaters	2082			1993

1	2	3	4	5	6	7	8	9
11.	8837907	28-06-2007	M/s Mahadev Lamp Industries WZ-271, Shakur Pur Village, Delhi-110034	Tungsten filament general service electric lamps	418	2	3	2004
12.	8838808	28-06-2007	M/s Shree Krishna Industries, 192 Khub Ram Park, Phase-II, Prem Nagar-I, Nangloi, Delhi-110041.	Safety of household and similar electric appliances—Electric Iron	302			1992

[No. CMD/13 : 11]

A. K. TALWAR, Dy. Dir. Genl. (Marks)

नई दिल्ली, 8 अक्टूबर, 2007

का, आ. 3021.—भारतीय मानक व्यूरो (प्रमाणन) विनियम, 1988 के विनियम (5) के उप-विनियम (6) के अनुसार में भारतीय मानक व्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, उन लाइसेंसों को उनके आगे दर्शायी गई तारीख से रद्द/स्थगित कर दिया गया है :—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	लाइसेंसधारी का नाम व पता	लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द करने की तिथि
1	2	3	4	5
1.	8155978	मैसर्स बिंदलीस इंडिया प्राइवेट लिमिटेड 10758 मानकपुरा, करोल बाग दिल्ली-110005	मिनरल फिल्ड शीटीड	13-06-2007
2.	8445987	मैसर्स वैष्णो लैम्प इंडस्ट्रीज डब्ल्यू जेड-2/1, बसईदारापुर दिल्ली-110015	बिजली के बल्ब	12-06-2007
3.	8548997	मैसर्स ककड एलीमेंट्स स्टोरजिस्टर्ड बी-85, जी टी करनाल रोड इंडस्ट्रीयल एरिया दिल्ली-110033	तत्काल पानी गरमाने वाले बिजली के हीटर	04-06-2007
4.	8775911	मैसर्स ककड एलीमेंट्स स्टोर रजिस्टर्ड बी-85, जी टी करनाल रोड इंडस्ट्रीयल एरिया दिल्ली-110033	बिजली के छत टाइप पंखे और रेग्युलेटर	20-06-2007
5.	8799420	मैसर्स त्रिमूर्ति सेल्स एजेंसीज सी-131, यादव नगर, समयपुर, दिल्ली-110042	घरेलु और समान बिजली के साधित्रों की सुरक्षा विशिष्ट बिजली की इस्त्री	20-6-2007
6.	8810883	मैसर्स एकता इलैक्ट्रीकल्स 57, जी ब्लॉक, डीएसआईडीसी मंगोलपुरी दिल्ली-110083	घरेलु और समान बिजली के साधित्रों की सुरक्षा विशिष्ट बिजली की इस्त्री	22-06-2007
7.	8797921	मैसर्स हाउजर होम एप्लायसेंस बी-11, मौज पुर सज्जी मंडी, शाहदरा, दिल्ली-110053	बिजली के निर्माण वाटर हीटर	09-07-2007

1	2	3	4	5
8.	8798418	मैसर्स हाउजर होम एप्लायसेंस, बी-11, मौज पुर सब्जी मंडी, शाहदग, दिल्ली-110053	सुरक्षा विशिष्ट घरेलु और सामान बिजली के निर्माण बाटर हीटर	09/07/2007
9.	8803280	मैसर्स श्री श्याम लाइटेक प्राइवेट लिमिटेड, 27, द्वितीय तल, बादली औद्योगिक क्षेत्र, फेस-2, दिल्ली-110042	बिजली के छत टाइप पंखों और रेगुलेटर	23/07/2007
10.	8675297	मैसर्स मुखर्तेश इलैक्ट्रिकल्स प्रा.लि., एन ए-248, विष्णु गार्डन, नई दिल्ली-110018	नोदक टाइप एसी संवातन पंखों की विशिष्ट	17/08/2007
11.	8677103	मैसर्स मुखर्तेश इलैक्ट्रिकल्स प्रा.लि., एन ए-248, विष्णु गार्डन, नई दिल्ली-110018	एक फेज लघु एसी और यूनिवर्सल बिजली की मोटरों की विशिष्ट	09/08/2007
12.	8769411	मैसर्स जयचंदा भाइप इंडस्ट्रीज, 140, पहली मॉजिल, पड़पड़गंज, दिल्ली-110092	विद्युत संस्थापन के लिए कंड्यूट की विशिष्ट भाग 3 रोधन सामग्री के दृढ़ सादा कंड्यूट	02/08/2007

[सं. सीएमडी/13 : 13]

ए. के. तलवार, उप महानिदेशक (मुहर)

New Delhi, the 8th October, 2007

S.O. 3021.— In pursuance of sub-regulation (6) of the regulation 5 of the Bureau of Indian Standards (Certification) Regulations, 1988 of the Bureau of Indian Standards, hereby notifies that the licences particulars of which are given below have been cancelled/suspended with effect from the date indicated against each :

SCHEDULE

S.No.	Licence No.	Name & Address of the the Licences	Article/Process with relevant Indian Standards covered by the licence cancelled	Date of Cancellation
1	2	3	4	5
1.	8155978	M/s Bindlysh (India) Pvt. Ltd. 10758, Manakpura, Karol Bagh, Delhi-110005.	Mineral filled sheathed heating elements	13/06/2007
2.	8445987	M/s Vaishnolamp Industries WZ-2/1, Basai Darapur, Delhi-110015	Tungsten filament general service electric lamps	12/06/2007
3.	8548997	M/s Kakkar Element Store (Regd.) B-85, G.T. Karnal Road, Industrial Area, Delhi-110033	Electric instantaneous water heater	04/06/2007
4.	8775911	M/s Kakkar Element Store (Regd.) B-85, G.T. Karnal Road, Industrial Area, Delhi-110033	Electric ceiling type fans and regulators	20/06/2007
5.	8799420	M/s Trimurti Sales Agencies C-131, Yadav Nagar, Samay Pur, Delhi-110042	Safety of household and similar electrical appliances-Electric Irons	29/06/2007
6.	8810883	M/s Ekta Electricals 57, G Block, DSIDC Mangol Puri, Delhi-110083	Safety of household and similar electrical appliances-Electric Irons	22/06/2007

1	2	3	4	5
7.	8797921	M/s Hauser Home Appliances B-11, Maujpur Subzi Mandi, Maujpur, Shahdara, Delhi-110053.	Electric immersion water heater	09/07/2007
8.	8798418	M/s Hauser Home Appliances B-11, Maujpur Subzi Mandi, Maujpur, Shahdara, Delhi-110053	Safety of household and similar electrical appliances-Electric Immersion water heater	09/07/2007
9.	8803280	M/s Shree Shyam Lightek (P.) Ltd. 27, 2nd floor Badli Indl. Estate, Phase-II, Delhi-110042	Electric ceiling type fans and Regulators	23/07/2007
10.	8675297	M/s Muktesh Electricals Pvt. Ltd. NA-248, Vishnu Garden, New Delhi-110018	Propeller type AC ventilating fans	17/08/2007
11.	8677103	M/s Muktesh Electricals Pvt. Ltd. NA-248, Vishnu Garden, New Delhi-110018	Single-phase small AC and universal electric motors	09/08/2007
12.	8769411	M/s Jaichanda Pipe Industries 140, First Floor, F.I.E., Patparganj, Delhi-110092	Conduits for electrical installation	02/08/2007

[No. CMD/13 : 13]
A. K. TALWAR, Dy. Dir. Gen. (Marks)

नई दिल्ली, 8 अक्टूबर, 2007

का.आ. 3022.— भारतीय मानक व्यूरो नियम, 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक व्यूरो एतद् द्वारा अधिसूचित करता है कि जिन भारतीय मानकों के विवरण नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं :—

अनुसूची

क्रम सं.	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1.	आई एस 15778 : 2007 तप्त और अतप्त पेय जल वितरण व्यवस्था के लिए क्लोरीनकृत पाँलीविनायल क्लोराइड (सीपीवीसी) पाइप-विशिष्टि	—	30 सितम्बर, 2007

इस भारतीय मानक की प्रतियाँ भारतीय मानक व्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों, नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनंतपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ : सीईडी/राजपत्र]

ए. के. सैनी, वैज्ञानिक 'एफ' एवं प्रमुख (सिविल इंजीनियरी)

New Delhi, the 8th October, 2007

S.O. 3022.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each :

SCHEDULE

Sl. No.	No. & Year of the Indian Standards Established	No. and Year of Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1.	IS 15778 : 2007 Chlorinated Polyvinyl Chloride (CPVC) Pipes for Potable Hot and Cold Water Distribution Supplies—Specification	—	30 September, 2007

Copy of this Standards is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices : Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref: CED/Gazette]

A. K. SAINI, Sc 'F' & Head (Civil Engg.)

नई दिल्ली, 9 अक्टूबर, 2007

का. आ. 3023—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 6 के उप विनियम (3) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा नीचे अनुसूची में दिए गये उत्पादों की मुहरांकन शुल्क अधिसूचित करता है :—

अनुसूची

भारतीय मानक सं.	भाग	अनु. वर्ष	उत्पाद	इकाई	न्यूनतम मुहरांकन बड़े पैमाने पर	इकाई	स्लैब-1 में इकाइयां	इकाई	स्लैब-2 में इकाइयां	इकाई प्रचलन दर शेष रु.
15757	0	0	2007	अनुसरित फार्मूला- अनुपूरक आहार	एक एम.टी.	59500 50600	245	250	123	250 62 17-9-2007

[संख्या क्रेप्रवि/13:10]

ए. के. तलवार, उप महानिदेशक (मुहर)

New Delhi, the 9th October, 2007

S.O. 3023.—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations 1988, the Bureau of India Standards, hereby notifies the Marking Fee for the products given in the schedule :

SCHEDULE

IS. No.	Part	Sec	year	Product	Units	Minimum	Unit	Units	Unit	Units	Unit	Remain-	Effec-
						Marking Fee		Rate	in	Rate	in	ing	tive
						Large Scale	Small Scale	Slab-1	Slab-1	Slab-2	Slab-2	Rs.	Rs.
15757	0	0	2007	Follow-up 2007	One	59500	50600	245	250	123	250	62	17-9-
				Formula Comple- mentary Foods									

[No. CMD/13: 10]

A.K. TALWAR, Dy. Dir. Genl. (Marks)

नई दिल्ली, 9 अक्टूबर, 2007

का.आ. 3024.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के नियम 4 के उप नियम (5) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन लाइसेंसों के विवरण नीचे अनुसूची में दिए गए हैं, वे स्वीकृत कर दिए गए हैं :—

अनुसूची

क्रम संख्या	लाइसेंस संख्या	स्वीकृत करने की तिथि वर्ष/माह	लाइसेंसधारी का नाम व पता	भारतीय मानक का शीर्षक	भा.मा संख्या, भाग, अनु. वर्ष
1	2	3	4	5	6
1.	8807086	03-04-07	पालकी ज्वैलर्स, 164, आर्य समाज रोड, बी.टी. गंज रुड़की, हरिद्वार उत्तरांचल-247667	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्टि	आई एस 1417 : 1999
2.	8806993	03-04-07	मै. रघनाथ प्रसाद रमेश चन्द्र 28, खिरकी बाजार, हापुड़, गाजियाबाद, उत्तर प्रदेश-245101	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्टि	आई एस 1417 : 1999
3.	8808189	09-04-07	राज दीप एलेक्ट्रोइंस इंडस्ट्रीज, 21-22, सदर बाजार, मेरठ, उत्तर प्रदेश-250001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्टि	आई एस 1417 : 1999
4.	8809801	12-04-07	अमन फाअरोटेक प्रा. लि., 114, आनन्द औद्योगिक एस्टेट, मोहन नगर, गाजियाबाद उत्तर प्रदेश-201007	सुवाहा अग्नि शामक, शुष्क पाउडर टाइप (भंडरित दाब)	आई एस 13849 : 1993
5.	8809902	12-04-07	अमन फाअरोटेक प्रा. लि., 114, आनन्द औद्योगिक एस्टेट, मोहन नगर, गाजियाबाद, उत्तर प्रदेश-201007	अग्नि शामक के लिए प्रथमोपचार आई एस 884 : 1985 होज रील	
6.	8811077	23-04-07	एंकर इलैक्ट्रिकल्स प्रा. लि., प्लाट नं. 1बी, सेक्टर 8बी, इंटीग्रेटेड औद्योगिक एस्टेट, सानीपुर, हरिद्वार, उत्तरांचल-249403	संसिंहा रोज	आई एस 371 : 1999
7.	8811380	23-04-07	होमटेक स्विचगीयर एण्ड कंट्रोल्स, ई-91, ईपीआईपी, साईट-4, कासना ग्रेटर नोएडा, गौतमबुधनगर, उत्तरप्रदेश	ए.सी.स्पैतिक मीटर, वर्ग 1 और 2	आई एस 13779 : 1999
8.	8812685	25-04-07	मैसर्स रमानी पावर केबल्स, 62/2/2, साईट-4, औद्योगिक क्षेत्र, साहिबाबाद, गाजियाबाद, उत्तरप्रदेश-201012	विद्युत प्रयोजनों के लिए दाब संवेदी आसंजी टेप भाग 3 अलग-अलग सामग्रियों की अपेक्षाएं खंड 1 बिना थर्मो- सेटिंग आसंजी वाली प्लास्टिक- युक्त पॉलीविनाइल क्लोराइड टेप	आई एस 7809 : पार्ट 3 : सेक्षन 1 : 1986

1	2	3	4	5	6
9.	8812988	26-04-07	अमन फाउरोटेक प्रा. लि., 114, आनन्द औद्योगिक एस्टेट, मोहन नगर, गाजियाबाद, उत्तर प्रदेश-201007	सुवाहा रासायनिक अग्नि शामक, आई एस 940 : 2003 सोडा अमल टाइप	
10.	8820179	26-04-07	मैसर्स पैरामांडट पैस्टीसाइड्स प्रा. लि., 53-बी, मोखामपुर औद्योगिक कामप्लैक्स, फेज-1, मेरठ, उत्तर प्रदेश	आर्द्धनीय गंधक पाउडर की विशिष्टि	आई एस 3383 : 1982
11.	8813384	26-04-07	ए.बी.बी. लि., प्लॉट नं. 1, सेक्टर-1-बी, IIE, सिड्कुल, हरिद्वार, उत्तरांचल	अति धारा संरक्षण हेतु परिपथ वियोजाक	आई एस 8828 : 1996
12.	8812887	26-04-07	अमन फाउरोटेक प्रा. लि., 114, आनन्द औद्योगिक एस्टेट, मोहन नगर, गाजियाबाद, उत्तर प्रदेश-201007	शुष्क पाउडर टाइप सुवाहा अग्नि शामक	आई एस 2171 : 1999
13.	8813687	26-04-07	मैसर्स आरबिट केबल (इंडिया), सैक्टर 8ए, प्लॉट नं. 45-46, सिड्कुल, हरिद्वार, उत्तरांचल-249403	पीवीसी रोधित केबल	आई एस 694 : 1990
14.	8813788	27-04-07	जे. डी. इंडस्ट्रीज (इंडिया) लि., यूनिट नं. 1, 9बां किमी. स्टोन, जी.टी. रोड, गांव छपरौला, तहसील दादरी, गौतमबुधनगर, उत्तर प्रदेश	संरचना प्रयोजनों के लिए इस्पात के पाइप	आई एस 1161 : 1998
15.	8814386	01-05-07	मैसर्स शाश्वत केबल्स प्रा. लि., 1274, औद्योगिक क्षेत्र, लांधा रोड, छार, देहरादून, उत्तरांचल-248197	वायवीय गुच्छीत केबल-1100 बोल्ट तक कार्यकारी बोल्टता के लिए	आई एस 14255 : 1995
16.	8814487	01-05-07	मनोहर लाल हीरा लाल, 28 किमी. स्टोन, दिल्ली- मेरठ रोड, गांव दुहाई, पो. आ. सैथली, गाजियाबाद, उत्तर प्रदेश-201010	भु-सम्पर्कन के लिए जस्तीकृत लड	आई एस 12776 : 2002
17.	8815792	01-05-07	मैसर्स प्रनत इंजीनियर प्रा. लि., ए-9, ग्रामीण औद्योगिक, जस्तीकृत इस्पात प्रबलित एस्टेट, जीवन गढ़, विकास नगर,(एसीएसआर) एल्युमीनियम देहरादून, उत्तरांचल को चालक	शिरोपरि प्रेषणों के लिए जस्तीकृत इस्पात प्रबलित को चालक	आई एस 398 : पार्ट 2: 1996
18.	8819703	03-05-07	मैसर्स नैथानी प्लास्टिक मोलिंडंग वर्क्स, गांव लाडपुर, पी. ओ. रायपुर, देहरादून उत्तरांचल-248008	घरेलू और ऐसे ही स्थायी विद्युत संस्थापन के लिए	आई एस 14772 : 2000

1	2	3	4	5	6
19.	8815590	03-05-07	मैसर्स दादू पाईप्स (प्रा.) लि., पानी के कुओं में उपयोग ए-72, औद्योगिक क्षेत्र, सिकन्दराबाद, बुलन्दशहर, उत्तरप्रदेश	के जिए इस्पात की नलिकाएं	आई एस 4270 : 2001
20.	8815691	03-05-07	मैसर्स दादू पाईप्स (प्रा.) लि., ए-72, औद्योगिक क्षेत्र, सिकन्दराबाद, बुलन्दशहर, उत्तरप्रदेश	जल, गैस और मलजल के लिए बिजली से वेल्डिंग इस्पात के पाइप (168.3 से 2032 मि.मी. बाहरी व्यास)	आई एस 3589 : 2001
21.	8816188	04-05-07	इंडो एशियन फ्यूजिगियर लि., ई-4, बाहदराबाद औद्योगिक क्षेत्र, हरिद्वार, उत्तरांचल	सामान्य प्रकाश सेवाओं के लिए नलिकाकार फ्लोरेरेसेन्ट लैम्प भाग । अपेक्षाएं और परीक्षण	आई एस 2418 पार्ट । : 1977
22.	8817089	04-05-07	मेट्रो डॉर्स प्रा० लिमिटेड, रायपुर इंडस्ट्रियल एरिया, गागलहेरी रोड, भगवानपुर, रुड़की, हरिद्वार, उत्तरांचल-247661	लकड़ी के सपाट दरवाजे के शटर (ठोस कोर टाइप) भाग । प्लाईवुड के सतह युक्त पल्ले	आई एस 2202 पार्ट । : 1999
23.	8817190	04-05-07	मेट्रो डॉर्स प्रा० लिमिटेड, रायपुर इंडस्ट्रियल एरिया, गागलहेरी रोड, भगवानपुर, रुड़की, हरिद्वार, उत्तरांचल-247661	सामान्य प्रयोजनों के लिए प्लाईवुड	आई एस 303 : 1989
24.	8818596	07-05-07	अमित ज्वैलर्स, दुकान नं. 3, 17 राजपुर रोड, देहरादून, उत्तराखण्ड	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्टि	आई एस 1417 : 1999
25.	8818293	08-05-07	जिन्दल PE-X ट्यूब्स प्रा. लि., डी-10, सारा औद्योगिक क्षेत्र, रामपुर, तह. विकासनगर, चकराता रोड, सेलाकुई के पास, देहरादून, उत्तरांचल	तप्त एवं अनतप्त जल की पूर्ती ड्यू-पालीथीन/एलुमिनियम/पालीथीन समिश्र पाइपें	आई एस 15450 : 2004
26.	8818495	10-05-07	मैसर्स राजस्थान स्टील एण्ड ट्यूब्स कार्पो०, 31वां कि.मी. स्टोन, गांव मसूरी, हापुड़ रोड, गाजियाबाद, उत्तरप्रदेश	संरचना प्रयोजनों के लिए इस्पात के पाइप	आई एस 1161 : 1998
27.	8818903	10-05-07	साठे लाईटिंग प्रा. लि., डी-29, कवि नगर औद्योगिक क्षेत्र, गाजियाबाद, उत्तरप्रदेश	टंगस्टन तंतु वाले सामान्य सेवा विजली के बल्ब	आई एस 418 : 2004
28.	8820280	11-05-07	मैसर्स कोना इंडस्ट्रीज, ई-57, औद्योगिक क्षेत्र, हरिद्वार, उत्तरांचल-249401	250 वोल्ट और 16 एम्पीयर तक की रेटिंग करंट के लिए प्लग और सॉकेट निर्गम	आई एस 1293 : 2005
29.	8819396	11-05-07	टी.एस.टी. पाईप्स लि., 14वां कि. मी. स्टोन, हापुड़ रोड, गांव पासों, गाजियाबाद, उत्तरप्रदेश	पानी के कुओं में उपयोग के लिए इस्पात की नलिकाएं	आई एस 4270 : 2001

1	2	3	4	5	6
30.	8820684	16-05-07	मैसर्स टिहरी गिर्डर्स लि., मेरठ रोड, मुजफ्फरनगर, उत्तरप्रदेश-251003	सामान्य संरचना कारों के इस्पात	आई एस 2062 : 1999
31.	8822284	16-05-07	यूनीसैफ केबल इंडस्ट्रीज, खसरा नं. 203 सी, रायपुर औद्योगिक क्षेत्र, भगवानपुर, हरिद्वार, रुड़की, उत्तरांचल	वायवीय गुच्छीत केबल-1100 वोल्ट तक कार्यकारी वोल्टता के लिए	आई एस 14255 : 1995
32.	8822385	16-05-07	यूनीसैफ केबल इंडस्ट्रीज, ए-84, रुप नगर, औद्योगिक क्षेत्र, हरिद्वार, रुड़की, उत्तरांचल	शिरोपरि प्रेषणों के लिए जस्तीकृत आई एस 398: पार्ट 2 : 1996 इस्पात प्रबलित (एसीएसआर) एल्युमीनियम के चालक	
33.	8817695	17-05-07	वी. थी. इंडस्ट्रीज, ए-58, राम पार्क, लोनी, गाजियाबाद, उत्तर प्रदेश	बोतलबंद पीने का पानी	आई एस 14543 : 2004
34.	8823084	21-05-07	मैसर्स वीटो इंडस्ट्रीज, प्लाट नं. 65 से 67 और 74 से 77, सैक्टर-5, आई आई ई, सिद्धकुल, रानीपुर, हरिद्वार, उत्तरांचल-249403	पीवीसी रोधित केबल	आई एस 694 : 1990
35.	8823589	22-05-07	संतोष कुमार सराफ एण्ड संस, 1-2, सिटी प्लाजा, रेलवे रोड, हापुड़, गाजियाबाद, उत्तरप्रदेश-245101	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्टि	आई एस 1417 : 1999
36.	8824793	24-05-07	हनीवेल इलैक्ट्रोकल्स डेविसिज एण्ड सिस्टम इंडिया लि., खसरा नं. 323, (MI), सेंट्रल होप टाऊन, परगना पछाटून, तह. विकास नगर, देहरादून, उत्तरांचल-248197	250 वोल्ट और 16 एम्पीयर तक की रेटिट करंट के लिए प्लग और सॉकेट निर्गम	आई एस 1293 : 2005
37.	8824692	24-05-07	मेट्रो डौर्स प्रा. लिमिटेड, रायपुर इंडस्ट्रियल एरिया, गागलहरी रोड, भगवानपुर, रुड़की, हरिद्वार, उत्तरांचल-247661	ब्लॉक बोर्ड	आई एस 1659 : 2004
38.	8826191	24-05-07	न्यू सिंघल ज्वैलर्स, 122, चौपला मन्दिर, गाजियाबाद, उत्तरप्रदेश-201001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्टि	आई एस 1417 : 1999
39.	8824591	24-05-07	मेट्रो डौर्स प्रा. लिमिटेड, रायपुर इंडस्ट्रियल एरिया, गागलहरी रोड, भगवानपुर, रुड़की, हरिद्वार, उत्तरांचल-247661	कंक्रीट के शटरिंग कार्य के लिए प्लाइवुड	आई एस 4990 : 1993

1	2	3	4	5	6
40.	8826090	28-05-07	मैसर्स एग्रीमास कैमीकल्स लि. क्लोरोपाइरिफॉस, ई सी की ए-73, औद्योगिक क्षेत्र, चिशिटि सिकंद्राबाद, बुलंदशहर, उत्तर प्रदेश	आई एस 8944 : 1978	
41.	8823690	29-05-07	मैसर्स डीटीसी इंडस्ट्रीज, 20/6/9, साइट IV, साहिबाबाद, गाजियाबाद, उत्तर प्रदेश।	बोतलबंद पीने का पानी	आई एस 14543 : 2004
42.	8826595	29-05-07	गोपाल जी ज्वैलर्स, 185, अबू लेन मेरठ, उत्तर प्रदेश।	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-चिशिटि	आई एस 1417 : 1999
43.	8827702	30-05-07	हर्षो स्टील्स प्रा. लि., बी-2, साईट-4, औद्योगिक क्षेत्र, साहिबाबाद, गाजियाबाद, उत्तर प्रदेश-201010	संवातन और वर्षा के पानी के तंत्र सहित के भवनों के अन्दर की मिट्टी के लिए अप्ला-स्टिकृत पीवीसी पाइप	आई एस 13592 : 1992
44.	8827601	31-05-07	गौरव ल्यूमिनिरीज प्रा. लि., प्लाट नं. 13, 14, 15, सेक्टर IIDC, IIE, SIDKUL, हरिद्वार, उत्तरांचल	फ्लोरोसेन्ट प्रतिदीप्तबत्ती के लिए चौक भाग 1 स्विच स्टार्ट परिपथ हेतु	आई एस 1534 : पार्ट 1 : 1999
45.	8828397	01-06-07	मालू ईलैक्ट्रोइस प्रा. लि., प्लाट नं. 21-22, सेक्टर 3ए, सिङ्कुल, हरिद्वार, उत्तरांचल	संरचना इस्पात की धातु आर्क वेल्डिंग के लिए आवरित इलैक्ट्रोड (चदर को छोड़कर अन्य उत्पादन)	आई एस 814 : 2004
46.	8830485	05-06-07	मै. न्यू शक्ति आभूषण भडार, चोपला (नजदीक हनुमान मन्दिर) गाजिदाबाद, उत्तर प्रदेश-201001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-चिशिटि	आई एस 1417 : 1999
47.	8829197	05-06-07	मैसर्स एच. क्यू लैप्स मैन्यूफैक्चरिंग कंपनी, प्लाट नं. 73-74-75, सेक्टर 6ए, SIDKUL, हरिद्वार, उत्तरांचल।	सामान्य प्रकाश व्यवस्था के लिए स्वतः बालास्टकृत लैप्स	आई एस 15111 : पार्ट 1 : 2002
48.	8835903	07-06-07	मै. कानिष्का डाइमण्ड्स, 3/35, सरस्वती मार्किट, धामावाला बाजार, देहरादून, उत्तराखण्ड-248001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-चिशिटि	आई एस 1417 : 1999

1	2	3	4	5	6
49.	8830283	07-06-07	ज्योति ज्वैलर्स, डी-424, लाजपत नगर, साहिबाबाद, गाजियाबाद, उत्तर प्रदेश-201005	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्टि	आई एस 1417 : 1999
50.	8830586	07-06-07	मैसर्स रीको होम एप्लाईसिज, बी-22/6, मेरठ रोड, औद्योगिक क्षेत्र, सेक्टर-23 के पास, रेलवे क्रसिंग, गाजियाबाद, उत्तर प्रदेश	पम्प-पुनर्योजी साफ, ठंडे पानी के लिए	आई एस 8482 : 1998
51.	8832590	08-06-07	मैसर्स ज्योति इलैक्ट्रीकल्स इंडस्ट्रीज, प्लाट नं. 13, गली नं. 5, फेज 2, मंडोली, सेवाधाम आश्रम रोड, कृष्णा विहार औद्योगिक क्षेत्र, लोनी, गाजियाबाद, उत्तर प्रदेश	घरेलू और समान विद्युत साधिकों की सुरक्षा अन. 201-बॉटर हीटर	आई एस 302 (भाग 2/अनु 201) : 1992
52.	8830889	11-06-07	मै. जैन ज्वैलर्स, हकीकत नगर, तिराहा सहारनपुर, सहारनपुर उत्तर प्रदेश-247001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्टि	आई एस 1417 : 1999
53.	8832085	12-06-07	गौरगंग प्रोडक्ट्स प्रा. लि., प्लाट नं. 10, साऊथ साईड आफ जी.टी. बुलन्दशहर रोड, औद्योगिक क्षेत्र, गाजियाबाद, उत्तर प्रदेश	शिरोपरि पावर लाइनों हेतु इस्पात के खम्बे की	आई एस 213 : पार्ट 1 से 3 : 1980
54.	8832489	12-06-07	मैसर्स ज्योति इलैक्ट्रीकल्स इंडस्ट्रीज, प्लाट नं. 13, गली नं. 5, फेज 2, मंडोली, सेवाधाम आश्रम रोड, कृष्णा विहार औद्योगिक क्षेत्र, लोनी, गाजियाबाद, उत्तर प्रदेश	पानी गर्म करने के बिजली के निमज्जन हीटर	आई एस 368 : 1992
55.	8833491	13-06-07	मै. जोधापल कैलाश चन्द जैन, 14-15 चोक बाजार सदर, मेरठ कैट, मेरठ, उत्तर प्रदेश-250001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्टि	आई एस 1417 : 1999
56.	8834291	18-06-07	मैसर्स एम.एस. एंटरप्राइजिज, 46-बी, मोहकमपुर औद्योगिक एस्टेट, फेज-1, दिल्ली रोड, मेरठ, उत्तर प्रदेश	अल्पद्राव रेगुलेटर	आई एस 9798 : 1995
57.	8835697	20-06-07	मैसर्स पूनम उद्घोग, 5, पंजाब एक्सपैलर कंपाउंड, सिहानी चुंगी, मेरठ रोड, गाजियाबाद, उत्तर प्रदेश-201001	विद्युत संस्थापनों के लिए कंड्यूट्स भाग : 3 विद्युत रोधन सामग्री के इड सादे कंड्यूट	आई एस 9537 : पार्ट 3 : 1983

1	2	3	4	5	6
58.	8835394	20-06-07	मै. ताराचन्द मूलचन्द ज्वैलर्स, 114 सरोँफ बाजार, मुजफर नगर, उत्तर प्रदेश-251002	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्टि	आई एस 1417 : 1999
59.	8835293	20-06-07	दीवान ज्वैलर्स, 12, अपर बाजार, मोदी नगर, गाजियाबाद, उत्तर प्रदेश-201204	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्टि	आई एस 1417 : 1999
60.	8834901	20-06-07	मैसर्स रेयन इंडस्ट्रीज, 179/2, आनन्द औद्योगिक क्षेत्र, मोहन नगर, गाजियाबाद, उत्तर प्रदेश	सुरक्षा हैलमेट (मोटर साइकिल सवारों के लिए)	आई एस 4151 : 1993
61.	8836602	26-06-07	मै. मनमोहन पाइप्स प्रा. लि., 1 डी, सैक्टर 7, सिड्कुल औद्योगिक क्षेत्र, रानीपुर, जिला हरिद्वार, उत्तराखण्ड	पेयजल आपूर्ति के लिए अप्लास्टिकृत पीवीसी पाइप	आई एस 4985 : 2000
62.	8836703	26-06-07	ग्रोवर स्टील रोलिंग मिल्स, 17 कि.मी., दिल्ली-हापुड़ रोड, गाजियाबाद, उत्तर प्रदेश-201001	कंक्रीट प्रबलन के लिए उच्च सामर्थ्य विकसित इस्पात छड़ और तार	आई एस 1786 : 1985
63.	8842795	27-06-07	एस.एम. टेक्नोलोजी, खसरा नं. 1031, (M1), कैम्प रोड, सेलाकुई औद्योगिक क्षेत्र, देहरादून, उत्तरांचल-248197	पानी के मीटर (घरेलू टाइप)	आई एस 779 : 1994
64.	8840185	02-07-07	मै. जानकी ज्वैलर्स (प्रा. लि.), 316ए, अम्बेडकर रोड, गाजियाबाद, उत्तर प्रदेश-201001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्टि	आई एस 1417 : 1999
65.	8840286	02-07-07	न्यू पंजाब ज्वैलर्स, 54, 55, 56 सदर चौक बाजार, मेरठ, उत्तर प्रदेश	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्टि	आई एस 1417 : 1999
66.	8841288	09-07-07	के.एल. कन्कास्ट प्रा.लि. 25वां मील स्टोन जीटी बुलंदशहर रोड, लाल कुआं के पास, गाजियाबाद उत्तर प्रदेश	संरचना प्रयोजनों के लिए इस्पात के पाइप	आई एस 1161 : 1998
67.	8841490	09-07-07	मै. बंसल नारायण ईजी. वर्क्स प्लाट नं. 39, सेक्टर-2, II ई सिड्कुल, हरिद्वार उत्तरांचल	सामान्य प्रकाश व्यवस्था के लिए स्वतः बालास्टकृत लैम्प	आई एस 15111 : पार्ट 1 : 2002

1	2	3	4	5	6
68.	8840084	09-07-07	मै. बाब्के ज्वैलर्स, 15 बी, राजपुर रोड, देहरादून, उत्तराखण्ड	सिल्वर आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन	आई एस 2112 : 2003
69.	8841591	09-07-07	मै. केबरस कारपोरेशन, देवी मंदिर कंपाउंड, दिल्ली गेट के सामने, गाजियाबाद, उत्तर प्रदेश-201001	पीवीसी रोधित केबल	आई एस 694 : 1990
70.	8833289	12-07-07	मैसर्स कार्बो एक्वा इंडस्ट्रीज, बोतलबंद पीने का पानी एफ-45, रोड नं. 2, यूपीएसआईडीसी, औद्योगिक क्षेत्र, मसूरी-गुलाबठी रोड, गाजियाबाद, उत्तर प्रदेश-301302	एफ-45, रोड नं. 2, यूपीएसआईडीसी, औद्योगिक क्षेत्र, मसूरी-गुलाबठी रोड, गाजियाबाद, उत्तर प्रदेश-301302	आई एस 14543 : 2004
71.	8842896	16-07-07	विशाल पाइप लि., ए-71, औद्योगिक क्षेत्र, सिकन्दराबाद, बुलंदशहर, उत्तर प्रदेश-203205	संरचना उपयोग के लिए इस्पात के खोखले सेक्शन	आई एस 4923 : 1997
72.	8843902	17-07-07	शिवम ज्वैलर्स, 624, श्याम पार्क (मेन), गाजियाबाद, उत्तर प्रदेश-201005	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्टि	आई एस 1417 : 1999
73.	8844092	17-07-07	शक्ति ज्वैलर्स, ए-36, श्याम पार्क एक्सटेंशन, आभूषण/शिल्पकारी साहिबाबाद, गाजियाबाद उत्तर प्रदेश-201005	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्टि	आई एस 1417 : 1999
74.	8844193	17-07-07	विजय ज्वैलर्स, 218, अग्रसेन बाजार, गाजियाबाद, उत्तर प्रदेश	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्टि	आई एस 1417 : 1999
75.	8844496	20-07-07	मैसर्स विजन इंटरनेशनल (इंडिया), प्लाट नं. 87, सेक्टर आईआईडीसी, आईआईई, सिङ्कुल, हरिद्वार, उत्तराञ्चल	सामान्य प्रकाश व्यवस्था के लिए स्वतः बालास्ट्रक्ट लैम्प	आई एस 15111 : पार्ट 1 : 2002
76.	8842997	23-07-07	मैसर्स आर.डी. एक्वा एंड बिवरेजिज (एचयूएफ), जी-193, एमजीरोड, यूपीएस आईडीसी औद्योगिक क्षेत्र, गाजियाबाद, उत्तर प्रदेश	बोतलबंद पीने का पानी	आई एस 14543 : 2004

[सं. सीएमडी/13:11]
ए. के. तलवार, उप महानिदेशक (मुहर)

New Delhi, the 9th October, 2007

S. O 3024.—In pursuance of sub-regulation (5) of the regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1998 of the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given in the following schedule :—

SCHEDULE

Sl. No.	Licence No.	Grant Date	Name & Address of the Party	Title of the Standard	IS No. Part, Section and Year
1	2	3	4	5	6
1.	8807086	3-4-07	Palki Jewellers, 164, Arya Samaj Road, B. T. Ganj, Roorkee, Hardwar, Uttaranchal -247667	Gold and Gold Alloys, Jewellery/Artefacts- Fineness and Marking- Specification	IS 1417 : 1999
2.	8806993	3-4-07	Raghunath Prasad Ramesh Chand, 28, Khirki Bazar Hapur, Distt. Ghaziabad, U. P.-245101	Gold and Gold Alloys, Jewellery/Artefacts- Fineness and Marking- Specification	IS 1417 : 1999
3.	8808189	9-4-07	Raj Jewellers. 21-22, Sadar Bazar, Meerut, Uttar Pradesh-250001	Gold and Gold Alloys, Jewellery/Artefacts- Fineness and Marking- Specification	IS 1417 : 1999
4.	8809801	12-4-07	M/s. Aman Fiotech Pvt. Ltd., 114, Anand Industrial Estate, Mohan Nagar, Ghaziabad, Uttar Pradesh-201007	Specification for extinguisher dry powder type (constant pressure)	IS 13849 : 1993
5.	8809902	12-4-07	M/s. Aman Fiotech Pvt. Ltd., 114, Anand Industrial Estate, Mohan Nagar, Ghaziabad, Uttar Pradesh-201007	Specification for first- aid hose reel for fire fighting	IS 884 : 1985
6.	8811077	23-4-07	Anchor Electricals Pvt. Ltd., Plot No. 1B, Sector 8-B, IIE Intetreted Industrial Area, Ranipur, Hardwar, Uttaranchal -249403	Ceiling Roses- Specification	IS 371 : 1999
7.	8811380	23-4-07	Homtech Switchgear & Controls, E-91, EPIP, Site-4, Kaasna, Greater Noida, Gautam Buddha Nagar, Uttar Pardesh	AC Static Watt-hour Meters, Class 1 and 2- Specification	IS 13779 : 1999
8.	8812685	25-4-07	Ramani Power Cables P. Ltd., 62/2/2, Site IV, Industrial Area, Sahibabad, Ghaziabad, Uttar Pradesh-201012	Sepecification for Pressure Sensitive Adhesive Insulating Tapes for Electrical Purposes-Part 3: Re- quirements for Indivi- dual Materials - Section 1: Plasticized Polyvinylchloride Tapes with Non- Thermosetting Adhesive	IS 7809 : Part 3: Sec 1 : 1986
9.	8129.8	26-4-07	M/s. Aman Fiotech Pvt. Ltd., 114, Anand Industrial Estate, Mohan Nagar, Ghaziabad, Uttar Pradesh-201007	Portable Fire Extinguisher, Water Type (Gas Cartridge)-Specification	IS 940 : 2003

1	2	3	4	5	6
10.	8820179	26-4-07	Paramount Pesticides Pvt. Ltd., 53-B, Mohkampur Industrial Complex, Phase I, Meerut, Uttar Pradesh	Specification for Wettable Sulphur Powder	IS 3383 : 1982
11.	8813384	26-4-07	A. B. B. Limited, Plot No. 1, Sector 1-B, IIE, Sidkul, Hardwar. Uttarakhand	Electrical Accessories- Circuit Breakers for Over Current Protection for Household and Similar Installations	IS 8828 : 1996
12.	8812887	26-4-07	M/s. Aman Firotech Pvt. Ltd., 114, Anand Industrial Estate, Mohan Nagar, Ghaziabad, Uttar Pradesh-201007	Specification for portable fire extinguishers, dry powder (cartridge type)	IS 2171 : 1999
13.	8813687	26-4-07	Orbit Cable (India) Sector 8A, Plot No. 45-46, SIDCUL, Hardwar, Uttarakhand-249403	PVC Insulated cables for working voltages upto and including 1100 V	IS 694 : 1990
14.	8813788	27-4-07	J. D. Industries (India) Ltd., Unit No. 1, 9th Km Stone, G. T. Road, Village Chhapraula, Teh. Dadri, Gautam Buddha Nagar, Uttar Pradesh	Steel Tubes for Structural Purposes - Specification	IS 1161 : 1998
15.	8814386	1-5-07	Shaswat Cables (P) Ltd., 1274, Industrial Area, Langha Road, Chharba, Dehradun, Uttarakhand-248197	Aerial Bunched Cables for working voltages upto and including 1100 Volts-Specification	IS 14255 : 1995
16.	8814487	1-5-07	Manohar Lal Hira Lal Ltd., 28 Km. Stone, Delhi-Meerut Road, Village-Duhai, P. O. Sainthli, Distt. Ghaziabad, Uttar Pradesh-201206,	Galvanized Strand for Earthing- Specification	IS 12776 : 2002
17.	8815792	1-5-07	Pranat Engineers Pvt. Ltd., A-9, Rural Industrial Estate, Jeevan Garth, Vikas Nagar, Dehradun, Uttarakhand	Aluminium conductors for overhead transmission purposes: Part 2 Aluminium conductors, galvanized steel reinforced	IS 398 : Part 2 : 1996
18.	8819703	3-5-07	Naithani Plastic Moulding Works, Village Ladpur, P. O. Raipur, Dehradun, Uttarakhand-248008	General Requirements for Enclosures for Accessories for House hold and Similar Fixed Electrical Installations- Specification	IS 14772 : 2000
19.	8815590	03-5-07	Dadu Pipes (P).Ltd., A-72, Industrial Area, Sikandrabad, Bulandshahr, Uttar Pradesh	Steel Tubes Used for Water Wells - Specification	IS 4270 : 2001
20.	8815691	03-5-07	Dadu Pipes (P). Ltd., A-72, Industrial Area, Sikandrabad, Bulandshahr, Uttar Pradesh	Steel Pipes for Water and Sewage (168.3 to 2.540 mm Outside Diameter) - Specification	IS 3589 : 2001

1	2	3	4	5	6
21.	8816188	04-5-07	Indo Asian Fusegear Ltd., Plot No.10, Sector-4, IIE, Sidkul, Hardwar Uttaranchal	Specification for Tubular Fluorescent Lamps for General Lighting Service - Part 1 : Requirements and Tests	IS 2418: Part I: 1977
22.	8817089	04-5-07	Metro Doors Pvt. Ltd., Raipur Industrial Area, Gagalheri Road, Bhagwanpur Hardwar Uttaranchal-247661	Specification for wooden flush door shutters (solid core type): Part 1 Plywood face panels	IS 2202: Part 1: 1999
23.	8817190	04-5-07	Metro Doors Pvt. Ltd Raipur Industrial Area, Gagalheri Road, Bhagwanpur-247661 Hardwar Uttaranchal-247661	Specification for plywood for general purposes	IS 303 : 1989
24.	8818596	07-5-07	Amit Jewellers Shop No.3, 17. Rajput Road, Dehra Doon, Uttarakhand Dehradun, Uttaranchal	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking - Specification	IS 1417 : 1999
25.	8818293	08-5-07	Jindal Pe-X Tubes Pvt. Ltd., D-10, Sara Industrial Area, Rampur, Tehsil, Vikas Nagar, Chakrata Road-Near Selaqui Dehradun, Uttaranchal	Polyethylene/Aluminium/ Polyethylene Composite Pressure Pipes for Hot and Cold Water Supplies - Specification	IS 15450 : 2004
26.	8818495	10-5-07	Rajasthan Steel & Tubes Corp. 31 Km Stone, Vill. Masoori, Hapur Road Ghaziabad, Uttar Pradesh	Steel Tubes for Structural Purposes-Specification	IS 1161 : 1998
27.	8818603	10-5-07	Sathe Lightings Pvt. Ltd., D-29, Kavi Nagar Industrial Area, Ghaziabad, Ghaziabad, Uttar Pradesh	Tungsten filament general service electric lamps	IS 418 : 2004
28.	8820280	11-5-07	CONA Industries, E-57, Industrial Area. Near Railway Station. Hardwar, Uttaranchal-247401	Plugs and socket outlets of 250 volts and rated current up to 16 amperes	IS 1293 : 2005
29.	8819396	11-5-07	TST PIPES LIMITED 14th KM. St. No. 1, Hapur Road, Village-Parson Ghaziabad, Uttar Pradesh	Steel Tubes Used for Water Wells - Specification	IS 4270 : 2001
30.	8820684	16-5-07	Tehri Girders Limited Meerut Road, Mujaffarnagar Muzaffarnagar, Uttar Pradesh-251003	Steel for General Structural Purposes - Specification	IS 2062 : 1999

1	2	3	4	5	6
31.	8822284	16-5-07	Unisef Cable Industries Khasra No. 203 C, Raipur Industrial Area (Bhagwanpur), Roorkee, Hardwar Uttaranchal	Aerial Bunched Cables for working voltages upto and including 1100 Volts-specification	IS 1425 5: 1995
32.	8822385	16-5-07	Unisef Cable Industries Khasra No. 203 C, Raipur Industrial Area (Bhagwanpur), Roorkee, Distt: Hardwar, Hardwar Bhagwanpur, Uttaranchal	Aluminium conductors for overhead trans- mission purposes: Part 2 Aluminium conductors, galvanized steel reinforced	IS 39 8 : Part 2: 1996
33.	8817695	17-5-07	V. V. Industries A-58, Ram Park, Loni Ghaziabad Uttar Pradesh	Packaged Drinking Water (other than Packaged Natural Mineral Water) - Specification	IS 14543 : 2004
34.	8823084	21-5-07	Veto Industries Plot No. 65 to 67 & 74 to 77, Sector-5, IIE, Sidcul, Hardwar Ranipur Uttaranchal-249403	PVC Insulated cables for working voltages upto and including 1100 V	IS 694 : 1990
35.	8823589	22-5-07	Santosh Kumar Sarraf & Sons I-2, City Plaza, Railway Road, Hapur, Ghaziabad, Ghaziabad, Uttar Pradesh-245101	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking - Specification	IS 1417 : 1999
36.	8824793	24-5-07	Honeywell Electrical Devices and System India Ltd., Khasra No. 323 (MI), Central Hope Town, Pargana Pachwadun Teh. Vikas Nagar Dehradun Uttaranchal-248197	Plugs and socket outlets of 250 volts and rated current up to 16 amperes	IS 1293 : 2005
37.	8824692	24-5-07	Metro Doors Pvt. Ltd Raipur Industrial Area, Gagalheri Road Bhagwanpur-247661 Hardwar Uttaranchal-247661	Specification for block	IS 1659 : 2004
38.	8826191	24-5-07	M/S New Singhal Jewellers I22 Chopla Mandir, Ghaziabad Uttar Pradesh-201001	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking - Specification	IS 1417 : 1999
39.	8824591	24-5-07	Metro Doors Pvt. Ltd. Raipur Industrial Area Gagalheri, Bhagwanpur Hardwar Uttaranchal-247661	Specification for plywood for concrete shuttering work	IS 4990 : 1993
40.	8826090	28-5-07	Agrimas Chemicals Limited A-73, Industrial Area Bulandshar Sikandrabad Uttar Pradesh	Specification for Chlorpyrifos Emulsifiable	IS 8944 : 1978
41.	8823690	29-5-07	DTC Industries 20/6/9, Site IV, Ghaziabad Sahibabad Uttar Pradesh	Packaged Drinking Water (other than Packaged Natural Mineral Water)— Specification	IS 14543 : 2004

1	2	3	4	5	6
42	8826595	29-5-07	Gopal Jee Jewellers 185, Abu Lane, Meerut Uttar Pradesh	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking - Specification	IS 1417:1999
43	8827702	30-5-07	Harso Steels Pvt., Ltd., B-2, Site No.4, Industrial Area, Sahibabad Ghaziabad Uttar Pradesh-201010	Specification for UPVC pipes for soil and waste discharge systems inside building including ventilation and rainwater system	IS 13592:1992
44	8827601	31-5-07	Gourav Luminaries Pvt. Ltd., Plot No. 13, 14, 15 Sector IIDC, IIE, SIDKUL Haridwar, Uttaranchal	Ballasts for fluorescent lamps:Part 1 for switch start circuits	IS 1534: Part 1 : 1977
45	8828397	01-Jun-07	Malu Electrodes Pvt. Ltd., Plot No. 21-22, Sector 3A, Sidcul Haridwar-249403 Haridwar, Uttaranchal	Covered electrodes for manual metal arc welding of carbon and carbon manganese steel	IS 814: 2004
46	8830485	05-Jun-07	New Shakti Abhushan Bhandar Chopla, Near Hanuman Mandir Ghaziabad Uttar Pradesh-201001	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking - Specification	IS 1417 : 1999
47	8829197	05-Jun-07	H.Q Lamps Manufacturing Company, Plot No. 73-74-75, Sector-6A, SIDKUL Haridwar Uttaranchal	Self Ballasted Lamps for General Lighting Services - Part 1 : Safety	IS 15111 : Part 1 : 2002
48	8835903	07-Jun-07	Kanishka Diamonds 3/35, Sarswati Market, Dhamma Wala Bazar, Dehradun, Uttaranchal-248001	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking - Specification	IS 1417 : 1999
49	8830283	07-Jun-07	Jyoti Jewellers D-424, Lajpat Nagar, Sahibabad, Ghaziabad Uttar Pradesh-201005	Gold and Gold Alloys, Jewellery/Artefacts Fineness and Marking Specification	IS 1417: 1999
50	8830586	07-Jun-07	Reeco Home Appliances, B-22/6, Meerut Road Industrial Area, Near Sector-23, Railway Crossing Ghaziabad, Uttar Pradesh	Pumps - Regenerative or clear, cold water Specification	IS 8472 : 1998
51	8832590	08-Jun-07	Jyoti Electricals Industries, Plat No.13, Gali No.5, Phase 2, Mandoli Sewa Dhaam, Ashram Road, Krishana Vihar Industrial Area, Loni, Ghaziabad, Uttar Pradesh	Safety of household and similar electrical appliances: Part 2 Particular requirements, Section 201 Electric immersion water heater	IS 302 : Part 2 : Sec 201 : 1992

1	2	3	4	5	6
52	8830889	11-6-07	Jain Jewellers, Hakikat Nagar Tiraha, Saharanpur, Saharanpur Uttar Pradesh-247001	Gold and Gold Alloys, Jewellery/Artefacts Fineness and Marking — Specification	IS 1417: 1999
53	8832085	12-6-07	Gaurang Products Pvt. Ltd., Plot No. 10, South Side of G T Road, Bulandshahar Road, Industrial Area Ghaziabad Uttar Pradesh Ghaziabad	Specification for Tubular Steel Poles for Overhead Power Lines	IS 2713: Parts I to 3: 1980
54	8832489	12-6-07	Jyoti Electricals Industries, Plat No. 13, Gali No.5, Phase 2, Mandoli Sewa Dhaam, Ashram Road, Krishana Vihar Industrial Area, Loni, Ghaziabad, Uttar Pradesh	Specification for Electric Immersion Water Heaters	IS 368: 1992
55	8833491	13-6-07	Jodha Mal Kailash Chand Jain, 14-15 Chowk Bazar Sadar Meerut Cantt, Meerut Uttar Pradesh-250001	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking - Specification	IS 1417: 1999
56	8834291	18-6-07	M. S. Enterprises, 46-B, Mohakampur Industrial Estate, Phase-1, Delhi Road, Meerut, Uttar Pradesh	Low Pressure Regulators for Use with Liquefied Petroleum Gas (LPG) Mixtures - Specification	IS 9798 : 1995
57	8835697	20-6-07	Poonam Udyog, 5, Punjab Expeller Compound, Sihani Chungi, Meerut Road, Ghaziabad, Uttar Pradesh-201001	Conduits for electrical installations: Part 3 Rigid plain conduits of insulating materials (superseding IS:2509)	IS 9537 : Part 3: 1983
58	8835394	20-6-07	M/s. Tara Chand Mool Chand 114-Sarafa Bazar, Muzaffarnagar Muzaffarnagar, Uttar Pradesh-251002	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking - Specification	IS 1417 : 1999
59	8835293	20-6-07	Diwan Jewellers 12, Upper Bazar, Modinagar Ghaziabad, Uttar Pradesh-201204	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking - Specification	IS 1417: 1999
60	8834901	20-6-07	Ryan Industries, 179/2, Anand Industrial Estate, Mohan Nagar, Ghaziabad Uttar Pradesh	Specification for pro- tective helmets for scooter and motorcycle riders	IS 4151 : 1993
61	8836602	26-6-07	Manmohan Pipes Pvt. Ltd., 1-D, Sector-7, SIDCUL Industrial Area, Ranipur, Haridwar Haridwar, Uttarakhand	Unplasticized PVC Pipes for Potable Water Supplies -Specification	IS 4985 : 2000
62	8836703	26-6-07	Grover Steel Rolling Mills, 17th Km., Delhi-Hapur Road, Ghaziabad Uttar Pradesh-201001	Specification for high strength deformed steel bars and wires for concrete reinforcement	IS 1786 : 1985
63	8842795	27-6-07	S. M. Technologies Khasra No. 1031 (MI), Camp Road, Selaqui Industrial Area Dehradun, Dehradun Uttarakhand-248197	Specification for water meters (domestic type)	IS 779: 1994

1	2	3	4	5	6
64	8840185	02-7-07	M/s Janki Jewellers (P) Ltd., 316 A, Ambedkar Road, Ghaziabad, Uttar Pradesh-201001	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking - Specification	IS 1417: 1999
65	8840286	07-7-07	New Punjab Jewellers, 54,55,56 Sadar Chowk Bazar Meerut, Uttar Pradesh	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking - Specification	IS 1417: 1999
66	8841288	09-7-07	K. L. Concast Private Ltd., 25th Mail Stone, G.T.Bulandshahr Road, Near Lal Kuan, Ghaziabad, Uttar Pradesh	Steel Tubes for Structural Purposes - Specification	IS 1161: 1998
67	8841490	09-7-07	Vansal Narayan Engg. Works, Plot No. 39 Sector-2, IIE SIDKUL, Haridwar Uttaranchal	Self Ballasted Lamps for General Lighting Services - Part 1 : Safety	IS 15111 : Part 1 : 2002
68	8840084	09-7-07	M/s. Bombay Jewellers, 15-B, Rajpur Road, Dehradun Uttaranchal	Silver and Silver Alloys, Jewellery/Artefacts - Fineness and Marking - Specification	IS 2112 : 2003
69	8841591	09-7-07	Cables Corporation, Devi Mandir Compound, Opp. Delhi Gate, Ghaziabad, Uttar Pradesh-201001	PVC Insulated cables for working voltages upto and including 1100 V	IS 694: 1990
70	8833289	12-7-07	Carbo Aqua Industries, F-45, Road No.2. UPSIDC. Indl. Area, Masuri Gulaothi Road, Ghaziabad, Uttar Pradesh	Packaged Drinking Water (other than Packaged Natural Mineral Water) - Specification	IS 14543 : 2004
71	8842896	16-7-07	Vishal Pipes Ltd. (Unit No. II) A-71, Industrial Area, Sikandrabad, Bulandshar, Uttar Pradesh-203205	Hollow steel sections for structural use	IS 4923 : 1997
72	8843902	17-7-07	M/s. Shivam Jewellers, 624, Shyam Park (Main) Ghaziabad, Uttar Pradesh-201005	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking - Specification	IS 1417 : 1999
73	8844092	17-7-07	Shakti Jewellers, A-36, Shyam Park Extn. Sahibabad, Ghaziabad Uttar Pradesh- 201005	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking - Specification	IS 1417: 1999
74	8844193	17-7-07	Vijay Jewellers 218 ,Agarsen Bazar Ghaziabad, Uttar Pradesh	Gold and Gold Alloys, Jewellery/Artefacts - Fineness and Marking - Specification	IS 1417: 1999

1	2	3	4	5	6
75	8844496	20-7-07	Vision International (INDIA) Plot No. 87, Sector IIIDC, IIE, SIDKUL, Haridwar, Uttarakhand	Self Ballasted Lamps for General Lighting Services - Part 1 : Safety	IS 15111 : Part 1 : 2002
76	8842997	23-7-07	R. D. Aqua & Beverage (HUF) G-193, M.G. Road, UPSIDC Industrial Area, Ghaziabad, Uttar Pradesh	Packaged Drinking Water (other than Packaged Natural Mineral Water) - Specification	IS 14543 : 2004

[No. CMD/13:11]

A. K. TALWAR, Dy. Dir. Genl. (Marks)

श्रम एवं रोजगार मंत्रालयः

नई दिल्ली, 8 अक्टूबर, 2007

का.आ. 3025.—केन्द्रीय सरकार संतुष्ट हो जाने पर कि लोकहित में ऐसा करना अपेक्षित था, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के उपबंधों के अनुसरण में भारत सरकार के श्रम मंत्रालय की अधिसूचना संख्या का.आ. 948 दिनांक 28-3-2007 द्वारा बैंकिंग उद्योग जो कि औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि 2 में शामिल है, को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 17-04-2007 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित किया था ;

और केन्द्रीय सरकार की राय है कि लोकहित में उक्त कालावधि को छः मास की और कालावधि के लिए बढ़ाया जाना अपेक्षित है ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (vi) के परन्तुक द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए दिनांक 17-10-2007 से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है ।

[फा. संख्या एस-11017/5/97-आई.आर. (पी.एल.)]

एस. कृष्णन, अपर सचिव

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 8th October, 2007

S.O. 3025.—Whereas the Central Government having been satisfied that the public interest so requires that in pursuance of the provisions of sub-clause (vi) of the clause (n) of Section 2 of the Industrial Disputes Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S. O. No. 948 dated 28-03-2007 the service in Banking Industry which is covered by item 2 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947) to be a public utility service for the purpose of the said Act, for a period of six months from the 17th April, 2007;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months ;

Now, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a Public Utility Service for the purposes of the said Act, for a period of six months from the 17th October, 2007.

[File No. S.-11017/5/97-IR (PL)]

S. KRISHNAN, Addl. Secy.

नई दिल्ली, 8 अक्टूबर, 2007

का.आ. 3026.—केन्द्रीय सरकार संतुष्ट है कि लोकहित में ऐसा अपेक्षित है कि भारत सरकार टक्साल, कोलकाता, मुम्बई, नोएडा, चेरलापल्ली (रंगारेड्डी) एवं हैदराबाद में सेवाओं को जिसे औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की प्रथम अनुसूची की प्रविष्टि के अंतर्गत निर्दिष्ट किया गया है, उक्त अधिनियम के प्रयोजनों के लिए लोक उपयोगी सेवाएं घोषित किया जाना चाहिए ;

अतः अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खण्ड (द) के उप-खण्ड (6) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनों के लिए तत्काल प्रभाव से छः मास की कालावधि के लिए लोक उपयोगी सेवा घोषित करती है ।

[फा. संख्या एस-11017/2/2002-आई.आर. (पी.एल.)]

एस. कृष्णन, अपर सचिव

New Delhi, the 8th October, 2007

S.O. 3026.—Whereas the Central Government is satisfied that the public interest requires that the services in the India Govt. Mints, Kolkata, Noida, Mumbai, Hyderabad, Cherlapally (Ranga Reddy) which is covered by item 11 of the First Schedule to the Industrial Disputes Act, 1947 (14 of 1947), should be declared to be a Public Utility Service for the purpose of the said Act ;

Now, therefore, in exercise of the powers conferred by the proviso to (vi) of clause (n) of Section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares with immediate effect the said industry to be a Public Utility Service for the purposes of the said Act, for a period of six months.

[File No. S.-11017/2/2002-IR (PL)]

S. KRISHNAN, Addl. Secy.

श्रम एवं रोजगार मंत्रालय
नई दिल्ली, 17 सितम्बर, 2007

का. आ. 3027.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय खाद्य नियम के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, औद्योगिक अधिकरण, उदयपुर के पंचाट (संदर्भ संख्या 03/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-2007 को प्राप्त हुआ था।

[सं. एल-22012/35/2001-आई आर (सी एम-II)]
अजय कुमार गौड़, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 17th September, 2007

S.O. 3027.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 03/2002) of Industrial Tribunal, Udaipur as shown in the Annexure, in the Industrial Dispute between the management of Food Corporation of India, and their workmen, which was received by the Central Government on 17-9-2007.

[No. L-22012/35/2001-IR (CM-II)]
AJAY KUMAR GAUR, Desk Officer

अनुवान

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय, उदयपुर
(राज.) पीठासीन अधिकारी, श्री हरसुखराम पूनिया,
आर.एच.जे.एस.

प्रकरण सं. 03/02 आई.टी.आर.

नंदा रावत पुत्र श्री रूपजी रावत,
निवासी मोड़ी,
तह. बल्लभनगर,
जिला उदयपुर
... प्रार्थी

विरुद्ध

जिला प्रबन्धक, भारतीय खाद्य निगम,
42-ए पंचवटी, उदयपुर
हाल-बी.एन. कॉलेजे के सामने, उदयपुर . . . विपक्षी

उपस्थितः

प्रार्थी की ओर से : श्री प्रभुलाल श्रीमाली,
विपक्षी की ओर से : श्री हनुमान शर्मा

पंचाट

दिनांक 2 अगस्त, 2007

भारत सरकार के श्रम मंत्रालय, न्यू देहली के आदेश संख्या
एल-22012/35/2001 (आई आर) (सी एम-II) दिनांक 14-12-2001

के द्वारा निम्नांकित विवाद इस ज्ञायालय को अधिनिर्णय हेतु प्रेरित किया गया :

"Whether the action of the District Manager, Food Corporation of India, Udaipur by not giving alternate employment and terminating the services in the manner of compulsory retirement on medical grounds of Sh. Nanda Rawat, Handling Labour w.e.f. 13-11-99 is legal and justified ? If not, to what relief the concerned workman is entitled to ?"

उक्त प्रसंग प्राप्त होने पर न्यायालय द्वारा दिनांक 29-1-2002 को नियमित श्रम बाद संख्या 3/02 दर्ज रजिस्टर किया जाकर पक्ष कारान को नोटिस जारी किये गये। जिस पर प्रार्थी की ओर से कलेम व विपक्षी की ओर से जवाब पेश किया गया।

प्रार्थी की ओर से प्रस्तुत कलेम के तथ्य संक्षेप में इस प्रकार हैं — कि प्रार्थी को विपक्षी संस्थान ने 16 वर्ष पूर्व हैण्डलिंग लेबर के पद पर नियुक्त किया था दिनांक 9-1-92 से स्थाई कर दिया। प्रार्थी अपना कार्य पूरी मेहनत से करता था उसके कार्य में कभी कोई शिकायत नहीं रही। वर्ष 1997 में प्रार्थी को टी.बी. हो जाने से लम्बे समय तक गैर इलाज रहना पड़ा और इलाज के पश्चात् जब वह इयूटी पर गया तो विपक्षी संस्थान ने उसे कार्य पर लिये जाने से इन्कार कर दिया। इस पर प्रार्थी ने औद्योगिक विवाद उठाया जिस पर समझौता वार्ता के दौरान दिनांक 16-2-99 को प्रार्थी को पुनः कार्य पर लिये जाने का समझौता हुआ। विपक्षी संस्थान ने दिनांक 3-1-98 को मेडिकल बोर्ड द्वारा प्रार्थी का स्वास्थ्य परीक्षण करवाया जिसमें मेडिकल बोर्ड ने प्रार्थी को हल्का कार्य व 50 किलो वजन उठाने के लिए सक्षम पाया। विपक्षी ने 5-5-99 को पुनः बोर्ड के समक्ष उपस्थित होने बाबत कहा तो बाद जांच प्रार्थी को दिनांक 3-1-98 को जारी स्वास्थ्य प्रमाण पत्र को ही पुनः प्रमाणित कर दिया। विपक्षी ने दिनांक 16-2-99 के बाद प्रार्थी को गोदाम की साफ-सफाई, माल रखने, कट्टे की सिलाई आदि कार्य दिया व 50 किलो वजन के कट्टे उठाने आदि का कार्य कराया। प्रार्थी को दिनांक 14-10-99 को एक नेटिस इस आशय पर दिया कि प्रार्थी की दिनांक 13-11-99 से जबरण सेवामुक्ति कर दी जावेगी। जिस पर प्रार्थी ने अपनी पारिवारिक स्थित बताते हुए निवेदन किया कि इस तरह उसकी जबरन सेवानिवृत्ति नहीं की जाय, किन्तु प्रार्थी की नहीं सुनी व दिनांक 13-11-99 को उसे जबरन सेवानिवृत्ति दे दी गई जो अवैध व अनुचित थी। प्रार्थी के बाल एक साथ 100 किलो वजन नहीं उठा सकता लेकिन 50 किलो तक का वजन उठाने के लिए मेडिकल बोर्ड ने प्रार्थी को सक्षम माना है व विपक्षी के पास इस तरह का काफी कार्य है, फिर भी प्रार्थी को जबरन सेवानिवृत्ति दी जाना मात्र विपक्षी संस्थान के अधिकारियों की प्रार्थी के प्रति दुर्भावना मात्र है। इसलिए निवेदन किया कि प्रार्थी के जबरन सेवानिवृत्ति आदेश दिनांक 13-11-99 को अवैध व अनुचित घोषित किया जावे। साथ ही विपक्षी संस्थान की सेवा में सेवा निरन्तरता के साथ पुनः बहाल कराया जावे व इस अवधि में मिलने वाले वेतन व अन्य लाभ दिलाये जावे।

विपक्षी ने अपने जवाब में यह अंकित किया है कि प्रार्थी की नियुक्ति हैण्डलिंग लेबर के अन्तर्गत हुई, लेकिन प्रार्थी ने कभी भी

ईमानदारी से कार्य नहीं किया, बल्कि हमेशा कोई न कोई शिकायत रहती और छुट्टियां भी ज्यादा लिया करता। प्रार्थी की नियुक्ति 100 किलो की बोरियां उठाने के लिये हुई और वही कार्य करता था। प्रार्थी को टी.बी. हो गई थी और युदि कोई मजदूर बीमार हो जाता है तो जिला प्रबन्धक द्वारा गठित बोर्ड से उसकी जाच कराई जाती है। प्रार्थी लम्बे समय तक इलाज पर रहा परन्तु उसकी सूचना नहीं दी और उसको समय-समय पर सूचना पत्र दिये जाते रहे। मेडिकल बोर्ड की रिपोर्ट के आधार पर उच्चाधिकारियों द्वारा लिये गये निर्णय के आधार पर प्रार्थी को रिटायर कर दिया, जिसका पत्र उसे दिया तो प्रार्थी ने लेने से इन्कार कर दिया, जिसकी मौतबिरों के सामने तसदीक कराई गई और अन्त में पत्र उसके घर के पते पर भेजा गया जो भी वापस लौट कर आया। इलाज के पश्चात, जब वह हैण्डलिंग लेबर का काम करने योग्य नहीं रहा तो डाक्टरों की राय के अनुसार व प्रचलित नियमों के अनुसार उसे सेवाओं से मुक्त कर दिया। प्रार्थी को दिनांक 13-11-99 को मेडिकल बोर्ड की रिपोर्ट के आधार पर सेवानिवृत्ति किया गया है, न कि दिनांक 16-2-99 को। दिनांक 16-2-99 के पूर्व भी वह बिना सूचना दिये अनुपस्थित हुआ उसके माफी मांगने के कारण व उसकी स्थिति को देखते हुए उसे सेवा में लिया गया और हल्का काम दिया गया। प्रार्थी को दिनांक 14-10-99 को नोटिस नहीं दिया, बल्कि 13-10-99 को नोटिस दिया और उसके आधार पर दिनांक 13-11-99 को सेवानिवृत्ति का आदेश दिया। इस तथ्य को गलत बताया कि प्रार्थी को जबरन सेवानिवृत्ति दी गई हो बल्कि नियमों के अन्तर्गत उसकी सेवानिवृत्ति की गई है। अलटरनेट जोब का कार्य सिद्धान्त अथवा नियम भारतीय खाद्य निगम में नहीं है। यह सर्वथा मिथ्या आरोप है कि हाई कार्य करते हुए रोग ग्रस्त हुआ हो। सेवा नियमों की पालना करते हुए ही उसे सेवानिवृत्ति किया गया है और उसे सभी परिलाभ उपलब्ध करा दिये गये हैं। अतः प्रार्थी का प्रार्थना पत्र खारिज किये जाने की प्रार्थना की है।

विषपक्षी ने अपने जवाब के विशेष कथन में यह अंकित किया है कि प्रार्थी हमेशा बीमार रहता था और वह काम नहीं करता। इसके लिये उसे समय-समय पर जबानी तौर पर आगाह किया जाता रहा और अन्त में वह लम्बी छुट्टी पर रहा व विषपक्षी द्वारा उसका मेडिकल चेकअप कराया, उसमें भी उसके बीमारी बताई जिसके कारण वह हैण्डलिंग लेबर काम करने योग्य नहीं रहा, इसलिये डाक्टरों की राय के अनुसार व नियमों के अनुसार उसे सेवानिवृत्ति किया गया। प्रार्थी को हैण्डलिंग कार्य हेतु नियुक्ति दी गई उससे वही कार्य लिया गया। इसलिये लाईट इयूटी पर काम लेने का प्रश्न नहीं है। प्रार्थी को उक्त आधारों पर सेवा में रखने का प्रश्न ही नहीं है तथा धारा 33 (1)(2) के अन्तर्गत यह कार्यवाही चलने योग्य भी नहीं है।

प्रार्थी ने अपने क्लोम के समर्थन में स्वयं का शपथ पत्र पेश किया जिस पर विषपक्षी प्रतिनिधि ने जिरह की। विषपक्षी की ओर से के.के. वर्मा का शपथ-पत्र पेश हुआ जिससे प्रार्थी प्रतिनिधि ने जिरह की। दोनों पक्षों ने संबंधित दस्तावेजों को प्रदर्शित कराया।

उभय पक्षकारों के प्रतिनिधियों की मौखिक बहस विस्तार से सुनी गई। पत्रांशुली का अवलोकन किया गया।

प्रार्थी प्रतिनिधि ने अपने तकों के समर्थन में निम्नांकित न्यायिक निर्णय प्रस्तुत किये हैं :

- (1) 2007 एल.आई.सी. पेज 1148 (गुजरात)
- (2) 2004 एल.आई.सी. पेज 2898 (केरल)
- (3) 2003 एल.आई.सी. पेज 1133 (सुप्रीम कोर्ट)
- (4) 2003 एल.आई.सी. पेज 32 (देहली)
- (5) 23 (2000) डी.एल.टी. पेज 286
- (6) 105 (2003) डी.एल.टी. पेज 113
- (7) (1999) 1 सुप्रीम कोर्ट के सेज पेज 731
- (8) डी.बी. स्पेशल अपील रिट सं. 909/1995 राज. उच्च न्यायालय आदेश दिनांक 13-5-2003

मैंने उक्त सभी न्यायिक निर्णयों का सम्मान के साथ अवलोकन किया।

पत्रांशुली पर उपलब्ध मौखिक एवं दस्तावेजी साक्षक का अवलोकन करने प्रस्तुत न्यायिक निर्णयों का अवलोकन करने तथा प्रचलित विधि का अवलोकन करने के बाद इस प्रकरण के सम्बन्ध में मेरा निर्णय इस प्रकार है :

प्रार्थी नंदा रावत को विषपक्षी ने अपने अधीन नियुक्त कर उसे दिनांक 9-1-92 को स्थाई कर दिया। प्रार्थी को टी.बी. की बीमारी हो जाने के कारण प्रार्थी द्वारा अपना इलाज करवा कर इयूटी पर जाने पर विषपक्षी ने प्रार्थी को इयूटी पर नहीं लिया। जिसका प्रार्थी ने औद्योगिक विवाद उठाया जिस पर समझौता वार्ता के दौरान प्रार्थी को दिनांक 16-2-99 को पुनः कार्य पर ले लिया गया। विषपक्षी संस्थान ने दिनांक 3-1-98 को मेडिकल बोर्ड द्वारा प्रार्थी के स्वास्थ्य का परीक्षण करवाया। जिसमें मेडिकल बोर्ड ने प्रार्थी को हल्का कार्य करने व 50 किलो वजन उठाने के लिये सक्षम पाया। मेडिकल बोर्ड ने दुबारा भी यही राय व्यक्त की। प्रार्थी ने विषपक्षी के अधीन मेडिकल बोर्ड की राय के अनुसार हल्का कार्य किया। लेकिन विषपक्षी ने दिनांक 14-10-99 के नोटिस द्वारा प्रार्थी को दिनांक 13-11-99 से जबरन-सेवा-निवृत्ति दे दी।

इसमें से अधिकांश तथ्यों को विषपक्षी ने अपने जवाब में स्वीकार किया है। मेडिकल बोर्ड की राय के अनुसार प्रार्थी 50 किलोग्राम तक वजन उठाने के सक्षम पाया था और वह कार्यालय में हल्का कार्य करने की स्थिति में था। ऐसी स्थिति में प्रार्थी नंदा रावत को जबरन सेवानिवृत्ति करने का कोई औचित्य नजर नहीं आता है।

विषपक्षी ने अपने जवाब में यह भी अंकित किया है कि प्रार्थी को जबरन सेवानिवृत्ति नहीं दी गई, बल्कि नियमों के अन्तर्गत उसे सेवा निवृत्ति दी गई है। लेकिन विषपक्षी की ओर से ऐसा कोई नियम न्यायालय में प्रस्तुत नहीं किया गया। विषपक्षी इस प्रकार के कोई नियम नहीं बता सके जिसमें प्रार्थी को उक्त प्रकार से मेडिकल बोर्ड की राय के आधार पर जबरन सेवानिवृत्ति करने का प्रावर्धन हो।

विषपक्षी ने अपने जवाब में यह भी अंकित किया है कि प्रार्थी हमेशा बीमार रहता था और वह काम पर नहीं आता था, इस कारण इसे

सेवा से पृथक किया गया। लेकिन इस प्रकार का प्रार्थी को न तो कोई नोटिस दिया और न ही इन आरोपों के सम्बन्ध में घेरेलु जांच सम्पादित की गई। प्रार्थी ने विपक्षी के अधीन सेवाएं दी हैं और उस सेवा अवधि में प्रार्थी बीमार हुआ और प्रार्थी की कार्य क्षमता में कमी आई। इस प्रकार की स्थिति में प्रार्थी को जबरन सेवा निवृत्त नहीं किया जा सकता है, बल्कि उसके लिये विपक्षी को वैकल्पिक व्यवस्था करना आवश्यक था। जिससे प्रार्थी हल्का कार्य कर विपक्षी के यहां अपनी सेवाएं देता। मेडिकल बोर्ड की रिपोर्ट में भी इस बात का खुलासा किया है कि प्रार्थी 50 किलो तक का वजन उठाने व हल्का कार्य करने के लिये सक्षम है तो फिर प्रार्थी को पूरी तरह अयोग्य मान कर उसे जबरन सेवा निवृत्त करना किसी भी रूप में उचित नहीं माना जा सकता है।

प्रार्थी के प्रतिनिधि ने अपने तर्कों के समर्थन में जो न्यायिक निर्णय प्रस्तुत किये हैं, उनमें से अधिकांश न्यायिक निर्णय के तथ्य एवं परिस्थितियां इस वर्तमान प्रकरण के तथ्यों एवं परिस्थितियों से मेल खाती हैं, इस कारण उक्त न्यायिक निर्णय इस प्रकरण पर लागू होते हैं। विपक्षी ने प्रार्थी को जबरन सेवा निवृत्त दी है, जिसका विपक्षी के पास कोई उचित आधार नहीं है।

परिणामस्वरूप इन उपरोक्त हालात में मेडिकल बोर्ड की राय के आधार पर प्रार्थी नंदा रावत को जबरन सेवा निवृत्त दी है, जो विपक्षी का यह आदेश उचित एवं वैध नहीं है। अतः प्रार्थी विपक्षी संस्थान में अपनी सेवाएं बहाल होने योग्य है। प्रार्थी दिनांक 13-11-99 से अब तक सेवा से पृथक रहा है। अतः प्रार्थी दिनांक 13-11-99 से पुनः सेवा में बहाल करने की तिथि तक की अवधि का उसे मिलने वाले वेतन व परिलाभ का 40 प्रतिशत राशि भी प्राप्त करने का अधिकारी होगा। प्रार्थी की सेवाएं निरन्तर मानी जावे तथा उसे आगे का वेतन एवं अन्य लाभ भी नियमानुसार दिया जावे।

अतः भारत सरकार के श्रम मंत्रालय द्वारा जारी अधिसूचना दिनांक 14-12-2001 को उत्तरित करते हुए पंचाट इस प्रकार पारित किया जाता है कि — जिला प्रबन्धक, भारतीय खाद्य निगम, उदयपुर द्वारा मेडिकल बोर्ड की राय के आधार पर प्रार्थी नंदा रावत को जबरन सेवा निवृत्त करने का आदेश उचित एवं वैध नहीं है। अतः प्रार्थी पुनः सेवा में बहाल होने योग्य है। साथ ही प्रार्थी दिनांक 13-11-99 से पुनः सेवा में बहाल होने की तिथि तक उसे मिलने वाले वेतन व परिलाभ का 40 प्रतिशत राशि भी विपक्षी से प्राप्त करने का अधिकारी है।

अतः विपक्षी पंचाट प्रकाशन होने की तिथि से दो माह के भीतर प्रार्थी की सेवाएं निरन्तर मानते हुए उसे पुनः सेवा में बहाल करे तथा दिनांक 13-11-99 से पुनः सेवा में बहाल होने तक की तिथि तक की 40 प्रतिशत राशि अदा करें, अन्यथा उक्त अवधि के बाद बकाया राशि पर प्रार्थी 6 प्रतिशत वार्षिक दर से व्याज प्राप्त करने का अधिकारी होगा।

पंचाट आज दिनांक 2-8-2007 को खुले न्यायालय में लिखाया जाकर सुनाया गया।

हरसुखराम पूनिया, पीठासीन अधिकारी

नई दिल्ली, 17 सितम्बर, 2007

का. आ. 3028.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूर संचार विभाग के प्रबंधतांत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकारण/अमन्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 55/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-2007 को प्राप्त हुआ था।

[सं. एल-40012/561/2000-आई आर (डी.यू.)]
सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 17th September, 2007

S.O. 3028.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 55/2001) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Telecom Department and their workman, which was received by the Central Government on 17-9-2007.

[No. L-40012/561/2000-IR (DU)]
SURENDER SINGH, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW

Present :

Shrikant Shukla, Presiding Officer

I.D. No. 55/2001

Ref. No. L-40012/561/2000-IR (DU)

Dt. 28-2-2001

BETWEEN

Sh. Ajay Singh Negi,
S/o Sh. Trilok S. Negi,
R/o SBC-98, Yamuna Colony,
Dehradun-248001

And

General Manager, Telecom,
Windlass Shopping Complex,
Rajpur Road,
Dehradun-248001

AWARD

The Government of India, Ministry of Labour, New Delhi referred the following dispute vide No. L-40012/561/2000-IR (DU) dated 28-2-2001 for adjudication to the Presiding Officer, CGIT-cum-Labour Court, Lucknow :

"Whether the action of the Management in terminating the services of Sh. Ajay Singh Negi w.e.f.

May 2000 is justified if not, to what relief the workman is entitled?"

Worker's case in brief is that he was appointed by the employer on 7-6-99 as Computer Operator against the permanent and regular work and he had worked for more than 240 days in preceding 12 months the details of which are as follows :

Months	No. of days
June 1999	17
July 1999	22
Aug. 1999	22
Sept. 1999	21
Oct. 1999	19
Nov. 1999	21
Dec. 1999	23
Jan. 2000	20
Feb. 2000	21
Mar. 2000	21
Apr. 2000	17
May 2000	15

Total number of working days are 247

It is further alleged that total No. of working days in a week is 5 days in the establishment of the employer. Employer has not paid any leave to the workman. In the total No. of working the weekly holiday, festival holidays and National Holidays are not included. If the same be included then the total No. of working days will increase. After terminating the services of the worker, employer engaged one Sri Budhi Ballabh Bahuguna as Computer Optr. Which is totally illegal and arbitrary and against the provision of Sections 25G and H of the I.D. Act. The employer is an Industrial Establishment, hence they are under legal obligation of the mandatory provisions of section 25 N of the Act, but in the instant case the said provision has not been applied and hence the termination of worker is totally illegal and void. Moreover, the Labour Court (U.P.) Dehradun under section 33C(2) has passed an order by which opposite party was directed to pay the salary of the workman upto May 2000. The work and post against which the workman was engaged is still present and a regular one, hence the worker has a legitimate expectations to get the post, being a qualified and eligible person. Workman has therefore prayed that termination of worker be declared illegal and unjustified and opposite party be directed to reinstate the workman alongwith all consequential benefits with back wages. In the rejoinder worker has stated detail of working days shown by the

employer is not correct he had worked till 19-5-2000 and there is 5 days week in the office of the employer. Hence the question of completing 280 days bears no relevance with the case.

Worker has filed photocopies of the following documents :

1. The application of worker dt. 6-2-01 addressed to Dy. Labour Commissioner, Garhwal Mandal Dehradun under Section 6H(i) of UP Industrial Disputes Act requesting Dy. Labour Commissioner for the realisation of Rs. 8740 forwages from 5-2-2000 to 19-5-2000.
2. Order of Presiding Officer, Labour Court (U.P.) Dehradun passed in Misc. case No. 73/2000 Ajay Singh Negi Vs. Bharat Sanchar Nigam Ltd. dated 5-12-2000.
3. Application of Ajay Singh Negi dated 2-5-2000 addressed to Chief Accounts, BSNL stating therein that he had worked as daily wager since 7-6-99 but the employer has not paid from 13-3-2000 to 30-4-2000.
4. Copy of note sheet from 3-3-99 to 14-2-2000.
5. Work statement prepared with no signatures.
6. Form ACG-17.

Opposite party has disputed the claim by filing written statement. It has been submitted that Ajay Singh Negi was employed on 7-6-99 for data entry/typing letter by computer on need and mutual consent basis, subject to the condition of satisfactory work on payment of Rs. 120 per day as wages. It is further submitted that the worker worked upto 10-3-2000 on the above terms and conditions. Opposite party has stated that the worker has worked only for 194 days the details of which are given in para 4 of the written statement.

It is admitted that number of working days in a week are 5 days. It is further submitted that the worker has worked on the working days as per the verbal agreement on the terms and conditions mentioned above. He enjoyed all leave as per his requirement. The employer has right to terminate from work because worker was employed on work on mutual verbal consent subject to providing satisfactory services on need basis. It is further submitted that C. S. S. C. C. A. Rules 1965, Conduct Rule 1964 apply only on regular employee. As regular employees was not regular so all precaution regarding his conduct and discipline and improving his quality of work were given verbal. So far as the post is concerned, the opposite party has submitted that no such post has been created by the department so no eligibility has been fixed for said post so far. It is further submitted that department is bound to its rules and regulations. Worker was paid all wages upto 10-3-2000

i.e. upto the period he was employed and nothing is left unpaid. The demand of the worker is not justified and the same is illegal.

Photocopy of Rule OA No. 295/93 was attached with the written statement together with extract of Swamy's book.

Opposite party has filed photocopies of the following documents :

1. Payment made to Amar Singh, computer oprt. for the period 27-3-2000 to 31-3-2000.
2. Copy of ACG-17 regarding payment to Amar Singh from 21-3-2000 to 24-3-2000.
3. Copy of ACG-17 for payment dt. 13-3-2000 to 16-3-2000.
4. Photocopy of Asstt. General Manager dt. 29-4-03 given in misc. case No. 73/2000 (review petition).
5. Application of AGM in the Misc. case 73/2000 filing before Presiding Officer, Labour Court (U.P.) Dehradun (review application).
6. Application of AGM dt. 29-4-2000 for staying the operation of order dt. 5-12-2000 addressed to Presiding Officer, Labour Court (U.P.) Dehradun in misc. case No. 73/2000.
7. Photocopy of affidavit.
8. Application of maintaining the status quo alongwith application of opposite party filed before Presiding Officer, Labour Court (UP) Dehradun in case No. 73/2000.
9. Letter of Chief Accounts Officer addressed to AGM Legal dt. 22-7-2002 regarding engagement of Ajay Singh Negi upto 10-3-2000.
10. Application under Section 33C(2) of the applicant dated 6-6-2000.
11. Copy of notice of Labour Court (U.P.) Dehradun.
12. Photo copy of note sheet dt. 8-3-2000 to 12-6-01.
13. Letter of Assit. Director General (Personal V) New Delhi No. 3-8/2003-PERS-V/BSNL dt. 15-9-03 regarding category wise statistics as on 31-3-2003.

The worker has filed affidavit and he was cross examined by the representative of the opposite party.

Opposite party has filed the affidavit of Sri SK Sharma Accounts Officer of the opposite party and he has been cross examined by the representative of the worker.

Opposite party has filed the written argument on 24-1-07, worker was directed to take the copy of the document and was permitted to file argument but no written arguments has been filed by the worker. Worker has not put forth his argument.

No appointment letter has been filed by the worker in this case, that he was appointed as computer operator. According to statement of claim has stated in para 4, the worker has stated that he has worked for more than 240 days in preceding months the details of which have been mentioned above. Now according to the worker's own statement of claim the working days do not come to 240 days but the working days worked out to 239 days. According to the opposite party the worker has worked upto 10-3-2000 and according to them the working days of the worker are 194 days only.

Worker has filed his own application dt. 2-5-2000 addressed to Chief Accounts Officer, BSNL Dehradun stating therein that he was employed as daily wager since 7-6-99. This goes to show that the worker was not a regularly employed worker, but he was only daily wage employee.

It is admitted fact that the worker worked from 7-6-99 to 10-3-2000. Opposite party does not agree that the worker has worked beyond 10-3-2000. It is also admitted fact that no payment has been made to the worker beyond 10-3-2000.

Worker has admitted in his cross-examination that he was verbally appointed by Chief Accounts Officer Sri RK Srivastava on 7-6-99. He has stated that he has no documentary evidence to show that he was appointed against permanent or regular post or for regular work.

Worker has filed the self made statement showing that he has worked upto 19-5-2000 the statement does not contain any signature of the officer of the opposite party, therefore the statement filed by him carries no weight.

Worker has admitted in his cross-examination that he has filed photocopies of the payment vouchers upto 10-3-2000 only. He has also admitted that he has not received any wages from 10-3-2000 to 19-5-2000. Worker has stated that he has no document to show that he worked 21 days in March 2000 or worked 17 days in April 2000 or 15 days in May 2000. He has admitted in his cross-examination that he was paid @ Rs. 120 per day and he was paid on the days he appeared for work. He has also stated that he has no proof that he had worked on holidays.

It is also admitted fact that the opposite party has filed review application before the Labour Court (U.P.) Dehradun which is still pending. He has also admitted that he was not cross examined before the Labour Court (UP) Dehradun. Worker has stated in the statement of claim that Sri BB Bhaguna was engaged on his place after terminating his services but when questioned in cross examination, he has stated "मुझे यह नहीं मालूम कि श्री बी.बी. बहुगुणा काम कर रहे अथवा नहीं।" He has further stated "मेरी जानकारी में नहीं है कि BSNL में कम्प्यूटर आपरेटर का पद विद्यमान है अथवा नहीं।"

It is pertinent to mention here that the worker has filed note sheet upto Sl. No. 60 dt. 14-2-2000. He was

questioned as to why has not got and produced the photo-copy of note sheet beyond note sheet No. 60. Worker replied "क्रमांक 60 के आगे की नोट शीट मैंने दाखिल नहीं की है क्योंकि उसके बाद मेरी नहीं थी। यह कहना गलत है कि क्रमांक 60 के आगे की नोट शीट मैंने इसलिए दाखिल नहीं की क्योंकि वह भेरे पक्ष का समर्थन नहीं करती।"

Here it is noteworthy that note sheet No. 61 has been filed by the opposite party. Worker was questioned as to what he has to say about the one filed by the opposite party. Worker stated "जहां तक की नोट शीट में मुझे भुगतान दिया है वह सही है बाकी गलत है।"

Worker has further stated "मैं कम्प्यूटर से प्रिंटिंग का काम करता था अब यह काम कौन करता है मुझे नहीं मालूम। कागज 23/2 से 23/4 गवाह को दिखाया गया उसे देखकर उसने कहा कि सभी जाली है। विभाग में मेरी किसी से रंजिश नहीं है यह कहना गलत है कि जून 1999 से 10-3-2000 तक मात्र 194 दिन कार्य किया है।"

It is noteworthy that 10th March, 2000 was Friday and 11-2-2000 and 12-3-2000 was holiday as result of Saturday and Sunday as there was only 5 days week in the office of the opposite party.

It has not been proved that there existed any vacancy of computer operator sanction or unsanctioned. It is not the case of the worker that he entered into service by prescribed selection process i.e. to say there was any vacancy notified or any selection committee. In view these circumstances the worker was only daily wage casual worker who according to him has worked only 239 days. Section 25B of the I.D. Act 1947 is reproduced below :

25B : Definition of continuous service : For the purposes of the chapter :

- (1) a workman shall be said to be in continuous service for a period if he is, for that period, in uninterrupted service, including service which may be interrupted on account of sickness or authorised leave or an accident or a strike which is not legal or a lock out or a cessation of work which is not due to any fault on the part of the workman.
- (2) where a workman is not in continuous service within the meaning of clause (1) for a period of one year or six months he shall be deemed to be in continuous service under an employer :
 - (a) for a period of one year, if the workman, during a period of twelve calendar months preceding the date with reference to which calculation is to be made has actually worked under the employer for not less than :—
 - (i) one hundred and ninety days in the case of a workman employed below ground in a mine; and

- (ii) two hundred and forty days, in any other case;
- (b) for a period of six months, if the workman, during a period of six calendar months preceding the date with reference to which calculation is to be made, has actually worked under the employer for not less than—
 - (i) ninety five days, in the case of workman employed below ground in a mine; and
 - (ii) one hundred and twenty days, in any other case.

Explanation : For the purposes of clause (2) the number of days on which a workman has actually worked under an employer shall include the days on which :

- (i) he has been laid off under an agreement or as permitted by standing orders made under the Industrial Employment (Standing Orders) Act, 1946 (20 of 1946) or under the Act or under any other law applicable to the industrial establishment.
- (ii) he has been on leave with full wages, earned in the previous years;
- (iii) he has been absent due to temporary disablement caused by accident arising out of and in the course of his employment; and
- (iv) in the case of a female, she has been on maternity leave; so, however, that the total period of such maternity leave does not exceed twelve weeks.

In the present case Section 25B (2) is applicable. He cannot claim that Saturday and Sunday and other holidays be counted towards calculating his continuous service. Against the worker's own solitary evidence, opposite party has filed satisfactory reliable documentary evidence and it cannot be said that those documents are forged. The opposite party it appears that he engaged someone Amar Singh on the same terms and conditions in which the worker was engaged who has been paid vide ACG-17 the photocopies of which are on record paper No. 23/2 and 23/4. Someone Amar Singh was paid for the work in March 2000.

Sri SK Sharma, Accounts Officer has stated that Computer operation is not work of permanent nature. He has also stated that concerned clerk and officers themselves carry out the work of data entry and typing of computer. Sri Sharma has stated that Ajay Singh Negi has worked with the opposite party dated 7-6-99 to 10-3-2000. He has specifically denied that Sri BB Bhaguna was engaged in place of Ajay Singh Negi.

Sri Sharma has stated that Amar Singh was engaged on 17-3-2000 to 31-3-2000 and thereafter work ended and no one was engaged.

Sri Sharma has stated that Ajay Singh Negi did not come of his own after 10-3-2000 on the pretext that he does not know the Hindi work and he will not be able to work on Computer in Hindi. In the circumstances Amar Singh was engaged.

Representative of the opposite party has stated in the written argument that workman has used exparty order as evidence for payment of wages but it is settled law that a exparty order can not be used as evidence to show that workman had actually worked during the period in which the arrears of wages is granted by the Labour Court.

It is also argued by the opposite party that burden to prove that worker has completed 240 days continuously service lies on the workman and thus it is for the workman to adduce evidence to prove the said factum.

From careful perusal of entire record I come to the conclusion that worker orally on some oral contract was engaged to perform the task data entry and typing on computer from 7-6-99 to 10-3-2000 on the daily wage basis. It is also proved that on 31-3-2000 no typing or data entry work is left over and the officers and staff of the opposite party themselves carry out the typing work and data entry. It is also proved that there is no sanctioned post of the data entry operator or computer operator with the opposite party. It is also proved that worker has not completed 240 days preceding the date of his termination within a year. Therefore there is no question of any protection is available to the workman under section 25F of the I.D. Act. 1947 and section 25F is not attracted of no help to the worker.

From the discussions above I come to the conclusion that the worker was not terminated in May 2000 as reference order. Worker worked only upto 10-3-2000 for which the salary has been paid to him. Action of the management therefore is not unjustified or illegal. Issue is therefore decided against the workman in favour of the management and the worker is not entitled to any relief. Award passed accordingly.

Lucknow

5-9-2007

SHRIKANT SHUKLA, Presiding Officer

नई दिल्ली, 17 सितम्बर, 2007

का. आ. 3029.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार करेसी नोट प्रैस के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं. II, मुम्बई के पंचाट (संदर्भ संख्या सी जी आई टी-2/102 ऑफ 2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-2007 को प्राप्त हुआ था।

[सं. एल-16011/2/2001-आई आर (डी.यू.)]

सुरेन्द्र सिंह, डेस्क अधिकारी

New Delhi, the 17th September, 2007

S.O. 3029.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.CGIT-2/102 of 2001) Central Government Industrial Tribunal-cum-Labour Court No. II, Mumbai as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Currency Note Press and their workmen, which was received by the Central Government on 17-09-2007.

[No. L-16011/2/2001-IR (DU)]

SURENDRA SINGH, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT

A.A. Lad, Presiding Officer

Reference No. CGIT-2/102 of 2001

Employers in relation to the Management of Currency Note Press

The General Manager,
Currency Note Press,
Nashik Road,
Nashik Road-422 101

AND

Their Workman

Shri P.G. Dhramadhikari and 27 Ors.
C/o. Currency Note Press
Nashik Road,
Nashik Road-422 101

APPEARANCES

For the Employer : Ms. Neeta Masurkar
Advocate

For the Workmen : Mr. M.B. Anchan,
Advocate

Mumbai, dated 17th August, 2007.

AWARD

Matrix of the facts as culled out from the reference are as under :—

1. The Government of India, Ministry of Labour, by its order No. L-16011/2/2001 IR(DU) dated 21-06-2001 in exercise of the powers conferred by clause (d) of sub-section(1) and sub-section 2(A) of Section 10 of the

Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :—

"Whether the action of the management of Currency Note Press, Nashik Road, in fixing the pay scale of Mr. P.D. Dharmadhikari and 27 others (as per annexure) Inspector Control, in the revised upgradation is legal and justified? If not, what relief the workmen concerned are entitled to?"

List of names of workmen :—

1. Shri P.D. Dhamadhikari
2. Shri S.G. Datta
3. Shri S.B. Pandharkar
4. Shri V.M. Kamble
5. Shri A.B. Vyavahare
6. Shri V.K. Avhad
7. Shri U.D. Vasave
8. Shri R.R. Lilke
9. Shri H.S. Ahire
10. Shri S.G. Talekar
11. Shri P.D. Sole
12. Shri A.M. Pawar
13. Shri K.G. Shinde
14. Shri S.K. Kanade
15. Shri V.S. Joshi
16. Shri D.M. Ghadge
17. Shri B.K. Shirsat
18. Shri K.H. Jagtap
19. Shri B.D. Janorkar
20. Shri. S.R. Joshi
21. Shri B.S. Jadhav
22. Shri S.V. Kawale
23. Shri S.L. Kulkarni
24. Shri M.K. Hundikar
25. Shri P.P. Badwe
26. Shri S.R. Mungad
27. Shri M.N. Kamat
28. Shri P.H. Gokhale

2. Claim Statement is filed by Representative of concerned workmen Ex-9 stating that the workmen involved in the reference are working as Inspector Control in the Currency Note Press at Nashik. It is a factory registered under Factories Act. Different denominations of currency

notes are printed in the factory. It also carries activities of commercial concern of Government of India and falls under Section 2(j) of the Industrial Disputes Act, 1947 as it runs those activities systematically. According to representative of the workmen involved in the reference were holding lower post in classified cadre and that is why they are governed by provisions of Factories Act.

3. Prior to intimation of Fifth Central Pay Commission recommendations, all were drawing wages in the scale of pay Rs. 1600-50-2300-EB-60-2660 from the date of their respective appointment as per the Fifth Pay Commission which was accepted by Government of India. This scale was revised to Rs. 5000-150-8000. While intimating said recommendations of Fifth Central Pay Commission, the staff whom higher pay scale has been allowed as per part "B" of the schedule which was allowed in the normal replacement stage. Thereafter General Manager, India Security Press and Currency Note Press reviewed the position and upgraded the scales of Inspector Control as shown in the office order dated 12/5/99 to Rs. 5500-175-9000 w.e.f. 1-1-96. As per that Inspector Control who were getting scale of pay Rs. 1600-50-2300-EB-60-2660 were placed in the revised scale of Rs. 5000-150-8000 in Part "A" which were replaced (upgraded) in scale of pay Rs. 5500-175-9000 under Part "B" w.e.f. 1-1-96. While fixing their pay in revised scale at the time of initial fixation in the normal scale and upgraded scale under Part "B", the emoluments should have been worked out as per Rule 7 of the CCS (RP) Rules 1997. However management failed to do so, though, there was Government Rules with illustrations and examples.

4. According to representative of the workmen, prior to implementation of the recommendations of the Fifth Central Pay Commission, the workers, were drawing scale of Rs. 1600-50-2300-EB-60-2660 from the date of their promotion to the post of Inspector Control. As per said fixation, they were coming in scale of Rs. 5000-150-8000 from 1-1-96 in September, 1997 and thereafter from June 1999 they were coming in scale of Rs. 5500-175-9000.

5. As per said revised scale, workmen involved in the reference were entitled to get the scale as shown at bottom of page 3 and half portion of page 4 of the Claim Statement and are entitled to get revised scale on the basis of it. However it is not given. So it is prayed that first party be directed to give the pay scales as per the Fifth Central Pay Commission and permit the concerned workmen to claim it.

6. This is objected by first party by filing reply Ex-17 making out case that, these workmen are not entitled for the scale which they have demanded. Whatever benefits these workmen were entitled to get, were extended by first party at that time itself and as per the Fifth Central Pay Commission their claim was considered and their scale was revised and given to them at proper time. Now they are not entitled to any additional claim than what was given to

them. It is also stated by first party that workmen involved in the reference does not fall in the category of 'workman' and does not come under Section 2 (s) of Industrial Disputes Act and it is also stated that this Tribunal has no jurisdiction to entertain this reference.

7. In view of above pleadings my Learned Predecessor framed issues at Ex-19 which I answer as follows :

Issues	Findings
(i) Whether the workers under reference are workmen under Section 2(s) of the Industrial Disputes Act?	No.
(ii) Does management prove that Tribunal has no jurisdiction to entertain and try the reference as averred in W.S. Para 1, 3 & 4?	No.
(iii) Whether the action of the management of Currency Note Press, Nashik Road, in fixing the pay scale of Mr. P.G. Dharmadhikari and 27 others (as per annexure) Inspector Control, in the revised upgradation is legal and justified?	Does not survive
(iv) What relief the workmen concerned are entitled to?	As per order

REASONS

Issue Nos. 1 & 2 :

8. According to first party, workmen involved in reference are not workmen and are in the grade of Supervisors so they does not fall under category of 'workman'. Besides it is case of first party that since workmen involved in reference are not 'workmen' this Tribunal has no jurisdiction. Whereas, case of the second party is that, though they are designated as 'supervisors', they are working as 'workmen' and doing work manually as per the directions of their superiors.

9. If we read the Claim Statement, we find, workmen involved in the reference themselves have described them as "supervisors". Initially they were in scale of pay Rs. 1600-50-2300-EB-60-2660 and as per upgradation, it was converted in scale of pay Rs. 5000-150-8000 and as per new scale they were claiming Rs. 5500-175-9000. So if we consider this position coupled with scale claimed by them and their designations, I am of the opinion that they cannot be called as 'workmen' as their salary besides their status does not permit them to claim it. Besides workman examined for them admits that he worked in the Control Department. Then employee working in Control Department, definitely

he is supposed to do work more than manual work. He also admits that, he is not classified staff and working as a Inspector Control. He also admits that he is filling self appraisal report every year. He admits that his scale was Rs. 5500-175-9000. So if we consider this and consider the status of the concerned workmen, it does not allow them to be called as 'workman' under Industrial Disputes Act. When they are not 'workmen' this Tribunal has no jurisdiction. So I answer this issue to that effect.

Issue Nos. 3 & 4 :

10. Besides, if we consider the claim of workmen, we find the witness examined for them admits that :

"Upgraded scale is Rs. 5500-175-9000. It is correct that department has done pay fixation in that grade. Basic scale was considered as per Rules while fixing the pay in the above scale. It is correct that pay is also considered as per Rule 7 (b) while fixing pay on above scale. It is true that interim relief was given (1) and (2) was considered by the department. It is true that 40% of basic pay in the existing scale was also considered. This formula is provided in Rule (1)(a). Initial scale of normal replacement of scale of Rs. 5000—8000 was given to us then upgraded scale was also given."

So from this it is clear that relief was given to concerned workmen. Their scale is upgraded. Benefit was given of proper scale. When all were there, then question is put as to why he was claiming that his pay is not properly fixed, to which he replied that while upgrading scale, scale cannot be reduced but it should be higher or it should be increased. Applying that test, he claimed that scale is not properly given. If we consider this position and the grievance of concerned workmen projected through this witness, we find in all cases, scale cannot increase while implementing new scale, some are getting benefits some are receiving loss. Besides that no specific case is made out in what way they received loss and what is the formula in assessing their loss. Moreover Court is not supposed to fix the scale as observed by Apex Court.

11. Written Arguments submitted by concerned workmen Ex-39 with some copies of citations and additional arguments submitted at Ex-41 does not help in any way to conclude that still they are entitled to get more. On the contrary, it reveals and admittedly they were benefited.

12. Considering this, coupled with case made out by both, I conclude that dispute made by concerned workmen about proper fixation of pay scale does not have any merit. So I answer above issues to that effect and pass following order :

ORDER

Reference is rejected with no order as to cost.

Dated : 17-08-2007

A. A. LAD, Presiding Officer

नई दिल्ली, 17 सितम्बर, 2007

का. आ. 3030.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इंडिया के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकारण नं. I, नई दिल्ली के पंचाट (संदर्भ संख्या 38/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-2007 को प्राप्त हुआ था।

[सं. एल-12012/146/1996-आई आर (बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 17th September, 2007

S.O. 3030.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 38/1998) of Central Government Industrial Tribunal No. I, New Delhi as shown in the Annexure, in the Industrial Dispute between the Management of State Bank of India and their workmen, which was received by the Central Government on 17-09-2007.

[No. L-12012/146/I996-IR (B-1)]

AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI SANT SINGH BAL,
PRESIDING OFFICER : CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, NEW DELHI**

I.D. No. 38/1998

In the matter of dispute between :

Shri Ranjit Singh,
Through the Circle President,
S.B.I. Staff Association,
2124/2, Hari Singh Nalwa Street No. 58,
Karol Bagh, New Delhi-110005 . . . Workman

Versus

The Dy. General Manager,
State Bank of India,
Delhi Zonal Office,
11, Sansad Marg,
New Delhi-110001 . . . Management

APPEARANCES : None

AWARD

The Central Government in the Ministry of Labour
vide its Order No. L-12012/146/96-I.R. (B-1) dated 6-2-98

has referred the following industrial dispute to this Tribunal for adjudication :—

“Whether the management of State Bank of India has given adequate opportunity to Shri Ranjit Singh Guard to appear in the test for promotion to the post of Record Keeper-cum-Cashier? If not to what relief the concerned workman is entitled?”

2. Brief facts of this case as culled from record are that the workman is a permanent employee of the State Bank of India which is a statutory body. The service conditions of the workman are governed by Sastry/Desai Awards as modified by the various Bipartite Settlements. As per the extent promotion policy of the Bank as applicable to the workman, all full time regular employees of the bank and who are 8th class pass from a recognized School/Board and have completed 8 years of satisfactory service in the Bank are eligible for promotion to the clerical cadre under 8 year channel. The workman fulfilled the eligibility criteria laid down by the Bank for promotion as Record Keeper-cum-Cashier and was eligible to appear in the promotional test held by the Bank on 13-3-94. It stated that due to unknown reasons the workman was deprived of the opportunity to appear in the promotional test, though he fulfilled the requisite eligibility criteria laid down by the Bank. In his own words he (workman) has stated that despite the representations by him the Bank did not advise to him the cogent reasons for this punitive denial of the promotional opportunity, whereas many other employees junior to him were allowed to appear in the promotional test and subsequently promoted. The illegal act of the Bank is against the law and the service conditions and put him to loss of promotion and wages. It is, therefore, prayed that the reference may kindly be answered in favour of the workman and against the management providing the workman the following relief:

- (i) the workman may be deemed to have been promoted retrospectively from the date the other workmen who appeared in the test on 13-3-94 have been promoted.
- (ii) The Bank may be directed to pay to the workman the difference of the wages with interest and other consequential benefits which might have accrued to the workman on promotion and to give any other relief and compensation which this Hon'ble Court deems fit and proper.
- 3. Claim was contested by the management by filing written statement denying the claim of the workman.
- 4. Written statement was followed by rejoinder wherein the controverted facts of the written statement were refuted and those of the claim statement were reiterated to be correct.

5. Management examined Shri T.S. Anand in support of its case while the workman examined himself to prove his own case.

6. After close of evidence the case was fixed for written arguments by the parties on 27-2-2001 and written arguments were filed by the parties and copies exchanged. The case is pending for arguments since 30-4-2001 but none applied to address oral arguments.

7. I have perused the record and gone through the evidence available on record including affidavit of workman as well as MWI Shri T.S. Anand Bank Manager and given my thoughtful consideration to the written submissions.

8. The case of the workman is that he was working as permanent employee of the bank and he was entitled to the promotion as Record Keeper-cum-Cashier and was eligible to appear in the test. A test was held on 13-3-94 but he was not given any notice of holding the examination on 13-3-94 and he was informed about holding test on 13-3-94. He being eligible was not informed of the promotional test held on 13-3-94 nor he was given requisite notice and the test was held without his information and knowledge and he was deprived of his right of promotion. On the contrary MWI T.S. Anand Bank Manager claimed that he personally gave the letter dated 11-3-94 to the workman about taking place of the test on 12-3-94. He also stated that he had personally gone to the house of the workman to persuade him but this fact is not averred in his affidavit. However, remarks "refused" were made by MW T.S. Anand on the attendance register by Ranjit Singh on 12-3-94 and his averment that he has tried to hand over the letter about holding of test but workman refused to accept the letter in his affidavit appears to be true in the absence of any allegation of any motive on his part put to him in cross-examination. Therefore it is evident that he (workman) himself has refused to accept the letter for appearance in the examination. From the letter dated 20-3-94 it appears that the workman has inspite of his being eligible did not even apply to take up a test though he has alleged that his name was not sent by MWI Shri T.S. Anand due to his being biased but he did not so depose in his affidavit Ex. WWI/A. It is apparent the workman himself ignored to take up the test of promotion. Hence it cannot be held that the workman was not afforded any adequate opportunity of appearing in the test.

9. In view of the above discussion I am of the opinion that the workman was given adequate opportunity to appear in the test for promotion to post of Record Keeper-cum-Cashier but he himself intentionally refused to avail of the opportunity and he is, therefore, not entitled to any relief. Award is accordingly made. File be consigned to record room.

Dated : 29-8-07 SANT SINGH BAL, Presiding Officer

नई दिल्ली, 17 सितम्बर, 2007

का. आ. 3031.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार रिजर्व बैंक ऑफ इंडिया के प्रबंधतांत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, नागपुर के पंचाट (संदर्भ संख्या 44/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-2007 को प्राप्त हुआ था।

[सं. एल-12012/668/1998-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 17th September, 2007

S.O. 3031.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 44/2000) of the Central Government Industrial Tribunal, Nagpur as shown in the Annexure, in the Industrial Dispute between the management of Reserve Bank of India and their workmen, which was received by the Central Government on 17-9-2007.

[No. L-12012/668/1998-IR (B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE SHRI A.N. YADAV, PRESIDING OFFICER, CGIT-CUM-LABOUR COURT, NAGPUR

Case No. CGIT/NGP/44/2000

Date : 6-9-2007

Petitioner :

Shri V.G. Neware,
R/o Behind house of Shri Nathu Teirandhe,
Bhagwan Nagar, Nagpur. Party No. 1

Versus

Respondent :

The Chief General Manager,
Reserve Bank of India,
Nagpur-440001. Party No. 2

AWARD

[Dated : 6th September, 2007]

The Central Government after satisfying the existence of disputes between The Secretary, Reserve Bank Employees Association, B.M.S. Office, Nagpur, Party No. 1 and The General Manager, Reserve Bank of India, Nagpur Party No. 2 referred the same for adjudication to this Tribunal vide its Letter No. L-12012/668/98-IR[B-1] Dt. 4-5-1999 under clause (d) of sub Section (1) and sub Section (2A) of Section 10 of Industrial Dispute Act, 1947 [14 of 1947] with the following schedule :—

(2) "Whether the action of the management of Reserve Bank of India, through its Chief General Manager, Nagpur in terminating/dismissing the

services of Shri V. G. Neware R/o Behind House of Shri Nathu Telrandhe, Bhagwan Nagar, Nagpur w.e.f. 1-4-1997, is legal and justified ? if not, to what relief the workman is entitled ?"

(3) The petitioner V. G. Neware in response to the notice of this Tribunal on receipt of the above referred order of the Central Government approached and filed Statement of Claim with the contention that he was in the employment of the respondent since 4-10-1982 in a capacity of a labour and was performing his duties. However w.e.f. 1-4-1997 the respondent, Bank did not provide any work. He was in continuous service with out any break for 15 years and had completed more than 240 days in each year. Despite of it he was not made permanent and therefore he raised his demand for permanency.

(4) The respondent in order to deprive his right of permanency issued a first charge sheet on 29-4-1987, second charge sheet on 8-5-1991 and third charge sheet on 8-3-1994. After domestic enquiry on the above three occasions with a mala fied intension imposed a punishment reducing his pay by two stages, one stage and six stages respectively. Thus it was a chain of events with the specific view to deprive him from the right of his permanency. On 1-4-1997 again issued a false charge sheet. It was replied by him but his explanation was not properly considered and without following the principles of natural justice and giving fair opportunities to him arbitrarily issued a order dt. 21-3-1997 and stopped providing the work w.e.f. 1-4-1997.

(5) The petitioner claims that the order dt. 31-3-1997 is only a proposing dismissal and the order of dismissal was never served on him. It simply stopped providing the work without giving any order. Even the appellate authority did not consider the merits and maintained the order of a dismissal. Thus according to him it is illegal dismissal without even serving an order of dismissal on him that of not providing the work is amounting to a dismissal. Therefore he approached the ALC and on failure of conciliation proceedings, he appeared in the reference.

(6) He was charge sheeted for the absence without any prior permission for 45 days during the period from 28-12-1995 to 17-9-1996. On each occasion of his absence was treated as a leave without pay and his salary was deducted for the same. It was punishment and by issuing another punishment again after a enquiry is amounting to a double jeopardy. His wife was not well and he was required to attend her as there is no other male member in his house. It was the reasons for his absence. He had applied, and on many occasions the respondent rejected his application alleging that he being temporary not entitled for any leave. It has been done only with a view to stop him from demanding the permanency and thus the order of dismissal dt. 31-3-1997 is illegal. He has prayed to reinstate him with the continuity of service and full back wages. He has also prayed to grant permanency.

(7) The management appeared and filed its Written Statement resisting the claim of the petitioner. It has contended that the service conditions of the employees of Reserve Bank of India are governed by the Reserve Bank of India (Staff) Regulations 1948. The petitioner was offered a post of temporary Mazdoor under a letter dt. 22-9-1982. The terms of para No. V of the letter of offer governs the service conditions in addition to the above regulations of 1948 as well as instructions and directions issued by the respondent. The petitioner accepted the conditions of the offer of letter Dt. 22-9-1982. Thus he was appointed as a temporary Mazdoor on 4-10-1982. The workman was irregular in attendance right from the date of appointment. He was advised by the respondent to improve his attendance. Due to unsatisfactory record of attendance, he was not suitable for confirmation. On three occasions the petitioner was punished for irregular attendance. However a lenient view was taken and instead of removing him from the service, a minor punishment was issued. During the tenure of 14 years of service he remained absent for 27 months and 21 days besides the admissible leave to him. For the same reasons he was not made permanent and was informed from time to time with a advise to improve his attendance. He remained absent from 28-12-1995 to 17-9-1996 in aggregate for 1 month and 15 days in 19 spells without obtaining prior permission or leave. He continued to remain absent. Therefore an enquiry was initiated. After appointing an Enquiry Officer, enquiry was conducted by giving full opportunities to the petitioner. The petitioner admitted the misconduct. A notice alongwith the copy of the report of the Enquiry Officer was served on the petitioner asking the show causes as to why the punishment of dismissal shall not be issued. As he was remaining absent, a dismissal order was served on him. The order of dismissal was served on the petitioner who later on challenged it before the appellate authority. His appeal was dismissed. Thus according to it the order is proper and correct due to his absence. All the enquiry was conducted giving full opportunity to the petitioner. The petitioner has made a false claim and it has prayed to answer the reference in negative since the order of the management is legal and proper.

(8) At the outset I would like to point out though there are disputes regarding the fairness of the enquiry and about its conduction. The counsel for the petitioner at the time of the cross examination of the witness conceded that the enquiry was fair and proper. Therefore my learned predecessor did not pass an order regarding the validity of the enquiry. The order Dt. 21-2-2005 which is in the hand writing of my learned predecessor indicates it and accordingly the parties had adduced the evidence. Perusal of the written notes of the parties it seems that they made some submissions on the point of validity of enquiry also. In fact it has no consequence. It is pertinent to note that

petitioner has at the time of explaining the charges admitted the miss conduct. The inquiry officer recorded his statement to that effect. In the existing circumstances there was no need even to proceed further and continue the enquiry still the I.O. submitted his report and the competent authority issued show cause notice giving copy to him and considered his explanation before awarding punishment. The submissions regarding the validity of Enquiry have no meaning. Same thing about the order of management it is complete order and the submissions that it simply a proposal and the order was not served cannot be accepted. I am deciding the case on merits after hearing the parties and their counsels only on the points of perversity of the findings of the Enquiry Officer and as to whether the punishment was disproportionate to the alleged misconduct of the petitioner.

(9) So far as the perversity of the findings the Enquiry Officer and as to whether the punishment is disproportionate to the alleged misconduct is concerned the petitioner examined himself and on behalf of the management Shri Ashok Nitnaware, Assistant General Manager, Personnel has been examined. Even the affidavit of the petitioner shows that there are no disputes regarding the period of absence. During the enquiry he had admitted the charges. Therefore there is no question of alleging that the findings of the Enquiry Officer are not supported by evidence and that it is a perverse. There is no question of perversity in the presence circumstances and the submissions to that effect have no meaning at all.

(10) Now turning to the point as to whether the punishment is grossly disproportionate to the alleged misconduct is concerned, the evidence of the petitioner shows that on earlier 3 occasions the management has punished him for the same reason for awarding the minor punishment like withholding the increments and deduction in the pay scale. He was on each occasion given a warning to improve the attendance. The petitioner in the cross-examination had admitted all the above facts besides his admission regarding truthfulness of the reasons for the absence given in the application submitted later on. Undisputedly he was absent for 45 days between the period from 28-12-1995 to 17-9-1996. The reasons given by him are various except that his wife was ill. Now he is submitting that due to the illness of his wife he could not the work regularly. He has admitted in the cross-examination that the reasons given for the absence are totally different and that he has filed any Medical Certificate of his wife.

(11) As against it the evidence of the management shows that he was earlier punished on three occasions and he was advised on so many occasions for improving his attendance. The petitioner alleges that since he was not made permanent, the management used to reject his application saying that as he was not made permanent, he was not entitled for the leave. These submissions are totally

wrong because he has availed all the leaves which were available to him. There is no evidence to that effect to support his submissions. He was not made permanent because of the punishment issued to him and he was informed accordingly but there is nothing on record to show that he was prevented from proceeding on leave which were admissible to him. His appointment was no doubt temporary but he was not on daily wages or casual labour, therefore there was no question of denying the admissible leave to him.

(12) Same thing is regarding his submission of double jeopardy. No doubt he was not paid for the absence which was beyond the admissible leave but it cannot be said that he was punished for his absence treating the absence as a extraordinary leave and refusing to pay for the same will not absolve him from the liability of misconduct. It is well settled that by treating the absence as without pay will not convert into a presence for avoiding the responsibility of misconduct. In such circumstances it can not be a double jeopardy.

(13) Had it been the first time of the absence and had there no punishment earlier for the same reason to his credit, his prayer regarding the disproportionate punishment could have been considered. Here the petitioner on three occasions earlier had given a chance by awarding a minor punishment. If the frequent absence is causing inconvenience in day to day and smooth working of the management, it was a proper action of the management of awarding a punishment of dismissal. It cannot be said as grossly inadequate or disproportionate to his misconduct. In my view the order does not require any interference. Hence I answer the Award in negative.

Dated: 6-9-2007

A. N. YADAV, Presiding Officer

नई दिल्ली, 17 सितम्बर, 2007

का. आ. 3032.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सिडिकेट बैंक के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/प्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 21/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-2007 को प्राप्त हुआ था।

[सं. एल-12025/1/2007-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 17th September, 2007

S.O. 3032.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Reference No. 21/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the employers in relation

to the management of Syndicate Bank and their workmen, which was received by the Central Government on 17-9-2007.

[No. L-12025/1/2007-IR (B-II)]
RAJINDER KUMAR, Desk Officer
ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT
AT HYDERABAD**

PRESENT:

Shri T. RAMACHANDRA REDDY, Presiding Officer

[Dated the 6th day of July, 2007]

Industrial Dispute No. L.C.I.D. 21/2006

Between :

Smt. Y. Prabhavathi,
C/o E. Jangamaiah,
Vasanthanagar P.O.,
Cana Bund, Kamiah Thopu,
Vijayawada
..... Petitioner

AND

1. The Branch Manager,
Syndicate Bank,
Currency Chest, Labbipet,
Vijayawada-520 010
2. The Regional Manager,
Syndicate Bank, Adam Arcade,
A. S. Rama Rao Road,
Mogalrajapuram,
Vijayawada-520 010
3. The Deputy General Manager,
Syndicate Bank, Zonal Office,
Pioneer House, No. 6-3-653,
Somajiguda,
Hyderabad-500 482
..... Respondents

APPEARANCES

- For the Petitioner : Sri William Burra,
Advocate
- For the Respondent : Sri Alluri Krishnam Raju,
Advocate

AWARD

This is a case taken under Sec. 2A (2) of the I.D. Act, 1947 in view of the judgment of the Hon'ble High Court of Andhra Pradesh reported in W.P. No. 8395 of 1989 dated 3-8-1995 between Sri U. Chinnappa and M/s. Cotton Corporation of India and two Others and numbered in this Court as L.C.I.D. No. 21/2006 and notices were issued to the parties.

2. The Petitioner submitted in her petition that she was discharged from the service by R1 on 5-11-2005 seeking back wages and reinstatement with continuity of service.

3. Counter filed by the respondent. At this stage, today i.e., 6-7-2007 the Petitioner's counsel filed memo to advance the case and record the withdrawal of the case. Petitioner represented that since the petitioner was employed by the respondent, she is not pressing the case. Hence, petition dismissed as not pressed and award passed accordingly. Transmit.

(Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her, corrected and pronounced by me on this the 6th day of July, 2007.)

T. RAMACHANDRA REDDY, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner	Witnesses examined for the Respondent
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NIL

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 17 सितम्बर, 2007

का. आ. 3033.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/अम न्यायालय नं.-1, नई दिल्ली के पंचाट (संदर्भ संख्या 148/1997) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-2007 को प्राप्त हुआ था।

[सं. एल-12012/383/1996-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 17th September, 2007

S.O. 3033.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 148/97) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the Industrial Dispute between the management of Punjab National Bank and their workmen, which was received by the Central Government on 17-9-2007.

[No. L-12012/383/1996-IR (B-II)]
RAJINDER KUMAR, Desk Officer

ANNEXURE

**BEFORE SHRI SANT SINGH BAL, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NO. 1, NEW DELHI**

I. D. No. 148/97

In the matter of dispute between :

Shri Subhash Chander,
H. No. 737, Gali Door Wali,
Main Bazar,
Paharganj,
New Delhi

VERSUS

The Assistant General Manager,
Punjab National Bank,
7, Bhikaji Cama Place,
New Delhi

APPEARANCES

Shri Ashok Kumar, A/R for the Workman

Shri J. K. Chadha, A/R for the Management.

AWARD

The Central Government in the Ministry of Labour Vide its Order No.L. 12012/383/96/I.R (B-II) dated 22/26-9-97 has referred the following industrial dispute to this Tribunal for adjudication:—

"Whether the action of the management of FNB in terminating the services of Shri Subhash Chander, Clerk/Cashier w.e.f. 28-12-94 by way of dismissal from service without notice is just and fair ? If not, to what relief the workman concerned is entitled ?"

2. Brief facts of this case as culled from record are that the workman claimant was employed with respondent bank and posted as clerk/cashier at B.O. Kashmere Gate. His services were governed by the provisions of Industry wise awards and Bipartite Settlements. He was served with charge sheet cum suspensions order on 23-12-91 vide Annexure I without affording him any opportunity of being heard which was in contravention of principles of natural justice as he was not afforded any opportunity of being heard. The respondent hurriedly appointed Shri N. L. Baweja as Enquiry Officer and J. B. Guliani as Presenting Officer vide order dated 3-2-92 Mr. Baweja started enquiry proceedings w.c.f. 6-3-93 during enquiry workman was reinstated on 27-4-93 and was posted at B.O. Kashmere Gate of the respondent. Thereafter another officer Shri R.N. Sharma was appointed as enquiry officer vide letter dated 24-1-94. During proceedings dated 9-2-94, the defence representative objected to appointment of an additional Enquiry Officer. However, Shri R. N. Sharma overruled the objections in his appointment and refused to wait for final

decision from the Disciplinary Authority. The appointment of Shri R. N. Sharma as Enquiry Officer was unjust, arbitrary and illegal having been made with ulterior motive of somehow proving charges against the workman and thus vitiated the entire proceedings. Defence representative again raised the matter of illegal appointment of additional E.O. during proceedings dated 11-8-1994 which was also over ruled by Mr. Sharma and has confirmed his appointment of E.O. vide letter dated 23-2-1994. Enquiry held by the Additional E.O. was sham and in violation of the principle of the natural justice and fair play. Presenting Officer interfered with the cross examination of the management witness, when the D.R. made certain suggestions regarding the charges being false. The additional E.O. acted in a biased manner and behaved both as a judge and prosecutor during testimony of the DW during proceedings dated 10-10-94 by asking questions to the DW in cross examination and thus held the proceeding in a biased manner. His action was vitiated as it reflected from order sheet dated 10-10-94. He ordered the presenting officer to file written brief with the E.O. by 17-10-94 with advanced copy to the D.R. who was permitted to file its brief within 7 days to the management brief i.e. Presenting Officer did not file written brief in time and was allowed more time by the Enquiry Officer, thus the workman was supposed to file written statement latest by 16-11-1994. However, enquiry officer did not wait for defence written brief till the ordered date and instead submitted his report to disciplinary authority on 14-11-94 itself i.e. 2 days in advance of the date fixed for submitting the written brief. On the one hand the additional E.O. accommodated the management by extending time for submitting written brief and on the other hand he did not wait even till the allotted time for submission of written brief by the defence. Though after receipt of the Enquiry Officer's report Disciplinary Authority did not receive workman comments on the report of the E.O. as directed by the Hon'able Supreme Court in Ramzan Ali's case, considered that the report of the E.O. on the back of defence and formed an opinion without considering the submissions of the defence with regard to the findings and conduct of enquiry which is violative of principles of natural justice as an eye wash. A show cause notice dated 21-11-94 was served on the workman against dismissal of the workman without notice. However, E.O.'s report was not attached with the same. In the show cause notice, comments of the workman were sought with regard to proposed punishment only and no opportunity was provided to the defence to represent against the lapses in enquiry and findings. The notice was unjust and illegal besides being arbitrary and mala fide. The said notice was replied vide letter dated 14-12-94 submitting that the proposed punishment was wrongful being contrary to enquiry record. The Disciplinary Authority did not apply his mind to the submissions made by the workman in his reply dated 14-12-94, the Disciplinary Authority vide order dated 23-12-94 confirmed the punishment proposed in the

above referred show cause notice which is in violation of the canons of law rules and principles of natural justice and contrary to the Bipartite Settlement. Workman filed an appeal dated 9-2-95. Appellate Authority also considered the case with close mind without application of mind and dismissed the appeal with non speaking order dated 16-9-95. The order of the Appellate Authority is arbitrary and illegal and liable to be set aside. Charge against the workman was that he received Rs. 30,000 from one Smt. Sarika Jolly while working on cash receiving seat and did not account for the same in the bank books. The Additional E.O. in his report on para 3 has clearly concluded that Smt. Jolly did not come to the branch and the said amount was not paid at Bank's counter. This charge is not proved as per findings of the Additional E.O. and is contrary to the conclusions reached. However, the E.O. purposely concluded that some other charges as proved. The enquiry report is full of contradictions and the same can not form basis for any further action in the matter. The conclusions drawn by the additional E.O. in his report are perverse being contrary to material available on record. Even Mrs. Sarika Jolly was not examined in this case to prove the charge. The procedure adopted by E.O. was against the provisions of Bipartite Settlement as well as against established principles of natural justice Report of Enquiry Officer is illegal and findings are perverse. The allegations do not prove misconduct and punishment awarded is liable to be set aside. The workman has an unblemished service record of over 20 years to his credit which fact has been completely ignored by the Disciplinary Authority and the Appellate Authority and as action in dismissing the workman from the bank is arbitrary, illegal and deserves to be quashed and he is entitled to be reinstated with full back wages and consequential benefits and it is accordingly prayed be answered.

3. Claim has been contested by the management by filing a report stating therein that the disciplinary action against Subhash Chander was taken by the bank in accordance with the provisions of the Chapter IX of Bipartite Settlement. During enquiry he was provided of reasonable opportunity to defend his case in accordance with the principles of natural justice during enquiry. The charges were proved and he was imposed punishment of dismissal.

4. On merits Shri Subhash Chander (workman) clerk/cashier was served with charge sheet dated 23-12-91 and posted at B.O. Pahar Ganj and was suspended on a complaint received from Smt. Sarika Jolly a customer of the branch. It was alleged that Shri Subhash Chander pocketed a sum of Rs. 30,000 which was tendered for deposit by the said customer on 15-10-91 at bank's counter and was received by Sh. Subhash Chander as per the documents produced by the customer. Subhash Chander failed to submit any reply to the charge sheet dated 23-12-91. He was given another opportunity vide letter dated 16-1-92 seeking reply within 2 days. Then enquiry was constituted

to look into the charges leveled against the workman. The suspension was revoked vide order dated 21-4-1993 and he was posted thereafter at B.O. Kashmeri Gate which resulted in the change in the Disciplinary Authority in terms of P. D. Circular No. 1012 dated 13-4-1987 to Regional Manager, New Delhi. The enquiry was conducted and sufficient opportunity was given to Subhash Chander to place his case. The enquiry report dated 14-11-94 was submitted to the Disciplinary Authority in which the enquiry officer stated that the charge against Subhash Chander of having pocketed Rs. 30,000 stood proved. Disciplinary Authority after going through the record in the enquiry and document agreed with the findings of the P.O. and proposed punishment of dismissal from bank service without notice upon Shri Subhash Chander vide show cause notice dated 21-11-94 and advised Subhash Chander to show cause as to why proposed punishment should not be confirmed. Personal hearing was fixed on 29-11-94. However, Subhash Chander vide his letter dated 24-11-94 informed that he had not received a copy of enquiry report as postulated to be enclosed with the show cause notice of 21-11-94 served upon him and he had also stated that the time given was very short for him to submit the reply. A copy of the enquiry report was given to him in person at the Regional Office and his request for granting extension to furnish reply was also considered and Shri Subhash Chander was advised vide letter dated 1-12-94 to show cause by the extended time of 14 days against the proposed punishment and the personal hearing was again rescheduled for 19-12-94. The reply submitted forthwith by Subhash Chander dated 14-12-94 was examined alongwith the submissions made by the workman and his D.R. in the personal hearing held on 19-12-94 the Disciplinary Authority then confirmed the punishment of dismissal from bank's service without notice vide speaking order dated 23-12-94. Shri Subhash Chander also preferred an appeal against the orders of the Disciplinary Authority which after due consideration was rejected by the Appellate Authority. He also preferred an appeal against the orders of the E.O. which was rejected by Appellate Authority after due consideration.

5. Written statement was followed by rejoinder wherein controverted facts of the written statement were refuted and those of the claim statement were reiterated to be correct.

6. Thereafter following issues were settled :

- (1) Whether the Enquiry conducted by the management is fair and proper ?
- (2) As per the terms of the Reference ?

7. Thereafter case was fixed for adducing evidence by the management. And management examined Shri R. N. Sharma MWI and he was cross-examined on 11-1-2000. Thereafter workman filed his affidavit and was cross-examined on 22-5-90.

8. After close of the evidence I have heard Shri Ashok Kumar A/R for the workman and Shri J.K. Chadha for the management.

9. I have given any thoughtful consideration to the contentions raised by representatives of the parties.

Issue No. 1 :

10. The workman claimant has contended that the enquiry has not been conducted in accordance with the rules and has assailed the enquiry as sham and illegal and conducted in violation of prescribed procedure laid down and suffers from illegalities on the following grounds :—

- (i) that the earlier E.O. has been changed to initiate the enquiry by appointing Shri R. N. Sharma as additional E.O. His appointment as additional E.O. is against the rules and without specific reasons that Mr. Sharma has acted and conducted the enquiry in a biased manner and has asked questions like cross-examination and cross-examined the workman claimant with a view to his prejudice and that he was given time to furnish his submissions and the matter was fixed for 12-11-94 for reply to written submissions by the Presenting Officer after conclusion of the enquiry on 10-10-94 but the enquiry report was submitted much before 12-11-94. Punishment of dismissal was passed by the respondent bank from bank service without notice upon the claimant and he was advised to show cause and without hearing on the proposed punishment should not be confirmed. Regarding 1st contention that the workman/claimant was not given hearing before he was suspended. The suspension order can be passed on consideration of allegations on party and reply given to the show cause notice. It is not necessary that the C.S.E. is to be given detailed hearing of being heard before order is passed. Moreover suspension order was ultimately revoked. On other contention that the enquiry submitted before the expiry of the time given for filing reply by the C.S.E. to written submission of the Presenting Officer is not properly supported by the statement and proceeding on record. Enquiry officer has been examined as WW1 and that the enquiry was concluded on 10-10-94 and it was submitted on 14-4-94 till then the workman has not filed reply to written submissions. I have gone through the entire proceedings, the findings of the E.O. is based on his admission. The conclusions reached by the Enquiry Officer cannot be said to be perverse. His finding is based on the admission of the workman who in his statement before

the E.O. has admitted that Mrs. Jolly has given him Rs. 30,000, Rs. 20,000 at one time and thereafter Rs. 10,000 but he could not deposit the entire amount as some of the amount has been spent by him. Moreover the receipt duly stamped have been given to Mrs. Jolly, the depositor and she has also written a letter that they have settled and cleared their account. The C.S.E.(workman) has also written a letter that he has given the amount but he did not admit this letter Ex.M8 written by Mrs. Sarika Jolly. However, in letter M-7 it was written that Mrs. Sarika Jolly is his sister and he would settle with her himself by paying the amount. Out of Rs. 30,000 he has repaid/given Rs. 10,000 to her and he would pay/return balance in a day or two. The letter M-7 is dated 4-12-91 and M-8 is dated 2-1-92 wherein it is stated that Mrs. Sarika Jolly received Rs. 10,000 on 26-11-91 and Rs. 20,000 on 3-12-91 and that is why she has not appeared as a witness as Money has been paid and some settlement was arrived between them and that is why she withdrew her grouse/or complaint against C.S.E. and did not appear as witness during the Enquiry proceedings.

11. In my view it cannot be said that the findings of enquiry officer are perverse and based on no material or suffer from any illegality or Enquiry has been conducted in violation of principles of natural justice the same being based on the admission of C.S.E. are not liable to be set aside. The change of E.O. of Additional E.O. R.N. Sharma in place of N. L. Bawea is claimed to have been effected as it was considered expedience at the earlier stage and does not go to the route of the matter to the prejudice of the workman.

12. The facts that the claimant returned the money to the depositor Smt. Sarika Jolly and bank did not suffer any loss due to this also do not mitigate the seriousness of the charge of misconduct leveled against the workman in any way and I do not find any circumstance to impose lesser punishment. I do not think that the punishment imposed of dismissal without notice is disproportionate to the charge. In view of the above circumstances I hold that the action of the management in terminating the services of Shri Subhash Chander from service without notice is just and fair and he is not entitled to any relief. Reference is answered accordingly and file be consigned to record room.

Dated : 30-8-07 SANT SINGH BAL, Presiding Officer

नई दिल्ली, 17 सितम्बर, 2007

का. आ. 3034.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मेसर्स एस.टी.सी. मूवर्स (प्रा.) लि. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके

कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/त्रिम न्यायालय नं. II, मुम्बई के पंचाट (संदर्भ संख्या 2/57/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-2007 को प्राप्त हुआ था।

[सं. एल-31011/11/2004-आई. आर. (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 17th September, 2007

S.O. 3034.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.2/57/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. II, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of M/s. STC Movers (P) Ltd., and their workmen, which was received by the Central Government on 17-09-2007.

[No. L-31011/11/2004-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II AT MUMBAI

PRESENT

A.A. Lad, Presiding Officer

Reference No. CGIT-2/57 of 2005

Employers in relation to the Management of

The Director,
M/s. STC Movers (P) Ltd.,
(CHA 11/33), 107, EMEA House,
289 Shahid Bhagat Singh Road,
Ballard Estate, Mumbai-400001 ... First Party

AND

Their Workman

The President,
Transport and Dock Workers' Union,
P.D. Mellow Bhavan, Carnac Bunder,
Mumbai-400038 ... Second Party

APPEARANCE

For the Employer : Mr. Rajshekhar, Representative

For the Workman : Mr. A.M. Koyande, Advocate

Date of Passing of Award : 9th August, 2007

AWARD

1. The Government of India, Ministry of Labour by its order No. L-31011/11/2004/IR (B-II) dated 17th February, 2005 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the

Industrial Dispute Act, 1947 have referred the following dispute to this Tribunal for adjudication :—

"Whether the action of the management of M/s. STC Pvt.Ltd. In retrenching services of 91 workers w.e.f. 08-04-2004 is justified? If not, what relief the union is entitled to?"

2. Notices were given to both the parties to attend the Reference as per the Corrigendum issued by the Government of India, Ministry of Labour, New Delhi. In response to that both appeared and vide Exhibit 9 contended that, they did not want to proceed with the Reference. Hence, the order :

ORDER

In view of Exhibit 9 Reference is disposed of.

Mumbai,
9th August, 2007

A.A. LAD, Presiding Officer

Exh. No. 9

IN THE CENTRAL GOVERNMENT INDUSTRIAL EXH. NO. 9, TRIBUNAL NO. II, AT MUMBAI

Reference No. 57 of 2005

M/s. S.T.C. Movers ... First Party
AND

M/s. Transport & Dock Workers' Union ... Second Party

MAY IT PLEASE YOUR HONOUR

Both parties to this reference have settled the matter. As such no cause is survives in this matter. Hence Second Party wish to withdraw the aforesaid matter. Hence matter may kindly be disposed of as withdrawn.

Mumbai :
9-8-2007

Sd/-

P.K. RAMAN, Secy.
The Transport & Dock
Workers' Union

Sd/-

Mr. Rajshekhar, Manager ... First Party

Sd/-

A.M. Koyande, Advocate ... Second Party Union

नई दिल्ली, 17 सितम्बर, 2007

का. आ. 3035.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार पंजाब बिजनेस एण्ड सप्लाई कं. प्रा. लि. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में

केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 54/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-09-2007 को प्राप्त हुआ था।

[सं. एल-34011/2/2006-आई. आर. (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 17th September, 2007

S.O. 3035.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.54/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the Industrial Dispute between the management of The Punjab Business & Supply Co. Pvt. Ltd., and their workmen, which was received by the Central Government on 17-09-2007.

[No L-34011/2/2006-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT HYDERABAD

PRESENT:

Shri T. Ramachandra Reddy, Presiding Officer

Dated the 2nd day of July, 2006

Industrial Dispute No. 54/2006

Between :

The General Secretary,
Visakhapatnam Port and Dock
Mazdoor Sangh,
H. No. 53-20-2/1, Chaitanya Nagar,
Visakhapatnam-530013 . . . Petitioner

AND

The Managing Director,
The Punjab Business & Supply Company
Pvt. Ltd.,
Shippers & Stevedores, Registered &
Central Office,
E-4, Industrial Area, P.O. Yemunanagar,
Rly. Station, Jagadhari,
Distt. Ambala (Haryana) . . . Respondent

APPEARANCES

For the Petitioner : None

For the Respondent : Sri C. Sanjeeda Rao &
C.N.S.P. Krishna Rao,
Advocates

AWARD

1. The Government of India, Ministry of Labour by its Order No. L-34011/2/2006/IR (B-II) dated 4-9-2006, referred the following dispute under Section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal between the management of The Punjab Business & Supply Co. Pvt. Ltd., and their workman. The reference is,

SCHEDULE

“Whether the demand of the Visakhapatnam Port & dock Mazdoor Sangh for payment of retrenchment compensation amount to their member workmen viz S/Shri V. simhachalam and 3 others., Ex-Rowing Boat Workers (As per the list), according to their eligibility, by the management of M/s. The Punjab Business & Supply Co. Private Ltd., (a Stevedores Company) at Visakhapatnam is legal and/or justified? If not, to what relief the concerned union is entitled?”

The reference is numbered in this Tribunal as J.D. No. 54/2006 and notices were issued to the parties.

2. Inspite of giving sufficient time and adjournments from 31-10-2006 for filing of claim statement and documents the petitioner has not turned-out with claim statement and documents. There is nothing on record to support his claim. In view of the circumstances, ‘Nil’ Award is passed, Transmit.

(Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 2nd day of July, 2007.)

T. RAMACHANDRA REDDY, Presiding Officer

APPENDIX OF EVIDENCE

Witnesses examined for
the Petitioner

NIL

Witnesses examined for
the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 18 सितम्बर, 2007

का. आ. 3036.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सउदी एरेबियन एअरलाइंस के प्रबंधतन्त्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय, मुम्बई-II के पंचाट (संदर्भ संख्या 24/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-09-2007 को प्राप्त हुआ था।

[सं. एल-11012/67/1999-आई. आर. (सी-I)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 18th September, 2007

S.O. 3036.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.24/2000) Central Government Industrial Tribunal/Labour Court, Mumbai-II now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Saudi Arabian Airlines and their workmen, which was received by the Central Government on 17-09-2007.

[No. L-11012/67/1999-IR (C-I)]

SNEH LATA JAWAS, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2,
MUMBAI**

PRESENT:

A.A. Lad, Presiding Officer

Reference No. CGIT-2/24 of 2000

**Employers in Relation to the Management of
M/s. Saudi Arabian Airlines :**

The Manager—India,
Saudi Arabian Airlines,
Express Towers,
Nariman Point,
Mumbai-400021.

AND

Their Workmen

Shri Ahmed Hussain,
E-Sector, BQ Line,
Room No. 9, Cheeta Camp,
Trombay,
Mumbai-400088.

APPEARANCES

For the Employer : Mr. P.I. Paulose Representative
For the Workmen : Mr. P. Chaturvedi, Advocate

Mumbai, dated 17th August, 2007

AWARD PART-II

Matrix of the facts as culled out from the reference are as under :—

1. The Government of India, Ministry of Labour, by its Order No. L-11012/67/99-IR (C-I) dated 4-2-2000 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the management of M/s. Saudi Arabian Airlines, Mumbai in dismissing the services of Mr. Ahmed Hussain Ex-Clerk-cum-Typist w.e.f. 25-2-99 is legal and justified? If not, what relief the workman concerned is entitled to?”

2. Workman Hussain was appointed as Clerk/Typist by first party Corporation on 14-5-91. Vide Statement of Claim (Ex-5) second party workman averred that he was suspended by the first party on 19-8-98 for the alleged misconduct and issued him chargesheet dated 24-8-98 and after inquiry he was dismissed from the services from 25-2-99. It is pleaded that chargesheet given to second party workman was vague, defective and not specific. He was not given copy of the complaint on which basis the charge was framed thereby violated the rules of natural justice. It is averred that proceeding was not recorded properly and on the basis of the apology tendered by the second party, the Inquiry Officer held him guilty and on the basis of that report, second party was dismissed by the first party illegally. It is pleaded that the findings recorded by the Inquiry Officer are perverse and not based on the evidence and that the inquiry being improper be set aside, directing management to reinstate him in service with full back wages.

3. First Party Corporation resisted the claim of second party by filing written statement (Ex-7) contending that second party workman was initially engaged as casual employee in 1982 and subsequently was appointed as Clerk/Typist in 1991. It is averred that first party had received report alleging he unauthorisedly collected a sum of Rs. 200 from one of the Passengers, Mr. Mohammed Yusuf Mehboob Bilgi to allot a seat for Flight No. SV 751 to go to Riyadh and he paid the same on the demand of second Party. Therefore, inquiry was held against him by giving full opportunity and that say of the concerned workman was sought on the findings of the Inquiry Officer by the show cause notice dated 6-11-98 and considering the documents and the findings, second party workman was dismissed from service. It is averred that a fair inquiry was conducted by the Inquiry Officer and that the findings were recorded by him on the basis of documents and evidence before him and consequently not perverse. Consequently first party contended inquiry being fair and findings not perverse, second party's claim be dismissed with costs.

4. By rejoinder (Ex-8) second party workman reiterated the recitals in the statement of claim denying the averments in the written statement.

5. On the basis of the pleadings recorded above, my Learned Predecessor framed issues at Ex-9. Out of those, issue numbers one and two were treated as preliminary issues which were on the point of fairness of enquiry and perversity of findings. By passing award Part-I dated 5-12-2002 my Learned Predecessor observed enquiry fair and proper and findings not perverse.

6. Now in this second round of the proceedings, issues regarding decision taken by the first party and relief

sought by workman are under consideration which are answered against it as follows :

Issues	Findings
3. Whether the action of the management of M/s. Saudi Arabian Airlines, Mumbai in dismissing the services of Mr. Ahmed Hussain, Ex-Clerk/Typist with effect from 25-2-1999 is legal and proper?	Yes
4. What relief Mr. Ahmed Husain is entitled to?	No

REASONS

Issue Nos. 3 & 4 :

7. This time, issue of punishment is under consideration as second party workman was punished by order of dismissal. According to second party workman, he was Clerk-cum-Typist. However his services were utilised to read the visa which was in Arabic language. According to second party workman, he was clerk-cum-typist but doing other works and as such he was invited to commit mistake as the work assigned to him was not his work or part of his job as well as he was not trained. But first party misused it, made capital of it and decided to terminate him which is not just and proper. Whereas case of the first party is that he was supposed to do work as per the directions given by his superiors. On the contrary, he was not doing work properly. He was not staying on the work place. He has habit to mix with the passengers and was indulging with them. Number of complaints were received against him.

8. To prove claim, second party workman examined himself second time in this proceeding by filing affidavit-in-lieu of examination-in-chief (Ex-26) where he states that, allegation of taking Rs. 200/- from passenger for giving priority in allotting seat in the aircraft was a planted one. Besides he was forced to accept the allegations giving assurance that no action will be taken. In the cross he states that he worked for 21 years. He admits that his official duty was not to check the passengers. He admits that, during that period first party was receiving threat. He admits that he was present when concerned passenger was questioned by the company supervisor. Against this first party examined one of its officers at Exhibit-30 by filing an affidavit in lieu of examination-in-chief who narrated the story how concerned workman behaved in his work place. In the cross he states that, he was working in the post of supervisor at that particular time and was supervising customer handling service from checking counter till said passengers cross the gate. He states that concerned workman was working as a visa reader. Said workman was under his supervision. He states that concerned workman approached the authority and disclosed that, he knew Arabic language and requested to permit him to work as a visa reader. He admits that he was not eye witness to concerned incident. He states that, some of his

subordinates informed about the incident and accordingly he reported said incident to Station Manager. He states that concerned workman broke law on number of occasions i.e. missing from the duty location, mixing with passengers and creating threat to security. In the cross, this witness describes the attitude and way of work of the concerned workman.

9. The allegation that concerned workman accepted Rs. 200/- from the passenger to help him. Besides allegation were leveled of leaving work place and mixing with the passengers in the background of threat received by the first party are leveled against the concerned workman. It is to be noted that first party is a foreign airlines operating its aircrafts in India like other airlines. The charge of misconduct was levelled against concerned workman. It is matter of record that enquiry was conducted in which concerned workman admitted his guilt and relying on that Inquiry Officer observed concerned workman guilty of the charges levelled. Even in the cross which was taken in the first round of litigation he admits that he apologized by letter dated 26-08-98 at Ex-12 and he admits its contents. This letter reveals that charges leveled against concerned workman were admitted to him.

10. When the charges of misconduct are leveled and proved which is very much concerned with the activities conducted by first party, if considered coupled with role played by concerned workman and duty discharged by him, I am of the view that the charges of misconduct are proved. Besides, those were admitted by him. When charges are proved and which are also admitted to second party workman, considering the nature of business run by first party of aviation, it is very much concerned with the life of the passengers. With the help of such an employee any terrorist may disrupt the business of first party and may play with life of the passengers as well as property of first party. Since it is very serious charge, concerned with business of first party, life of the passengers and property of first party, I am of the view that lenience does not have to play any role.

11. The citation referred by second party workman published in 1987 AIR (SC) page 111 is on different points and is not concerned with the subject matter involved in the reference. Same view can be expressed regarding another citation published in 1987 AIR (SC)-0-2386.

12. Considering all these, coupled with charges levelled against second party workman of misconduct and considering the place where second party workman was working, I conclude that punishment of dismissal is just and proper and does not require to be reconsidered. So I answer above issues to that effect and pass the following order :

ORDER

Reference is rejected.

A.A. 1AD. Presiding Officer

नई दिल्ली, 18 सितम्बर, 2007

का. आ. 3037.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सी सी एल के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय धनबाद-I के पंचाट (संदर्भ संख्या 79/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 17-9-2007 को प्राप्त हुआ था।

[सं. एल-20012/47/2003-आई आर (सी-I)]

स्नेह लता जवास, डेस्क अधिकारी

New Delhi, the 18th September, 2007

S.O. 3037.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 79/2003) of the Central Government Industrial Tribunal/Labour Court, Dhanbad-I now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of CCL and their workman, which was received by the Central Government on 17-9-2007.

[No.L-20012/47/2003-IR (C-I)]
SNEH LATA JAWAS, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Section 10(1)(d)(2A) of the Industrial Disputes Act, 1947

Reference No. 79 of 2003

Parties :

Employers in relation to the management of Argada Colliery of M/s. CCL

AND

Their Workmen

Present :

Md. S. Khan, Presiding Officer

APPEARANCES

For the Management : Sri D. K. Verma, Adv.

For the Workman : Sri R. K. Gupta, Adv.

State : Jharkahand

Industry : Coal

Dated, 31st August, 2007

AWARD

By Order No. L. 20012/47/2003/IR (Coal-I) dated, 18-8-2003 the Central Government in the Ministry of Labour has in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the

Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal.

SCHEDULE

“Whether the demand of the Janata Mazdoor Sangh from the Management of Argada Colliery, Argada Area of M/s. CCL to regularise Sri Satish Kumar Das, Category-I Mazdoor as underground Munshi w.e.f. 12-11-92 and to make payment of difference of wages is proper and justified ? If so, to what relief is the concerned workman entitled ?”

After having received the Order No. L. 20012/47/2003 IR (Coal-I), dated, 18-8-2003 of the aforesaid reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute a reference case No. 79/2003 was registered on 6/13-10-2003 and accordingly an order to that effect was passed to issue notice through the registered post to the parties concerned directing them to appear in the Court on the date fixed and file their written statement alongwith the relevant document and list of witnesses in support of their claim. In compliance of the said order notices were issued to the parties concerned. Sri D. K. Verma, Advocate and Sri R. K. Gupta, Advocate of the union appeared in the Court to represent the management and the union respectively.

From the perusal of the order sheet of the record it transpires that both the parties have filed their written statement in support of their claim. It is further clear from the record that the case was fixed for evidence of the management but today a petition alongwith a Zerox copy of office order dated 9-8-2007 of workman has been filed in the Court praying therein to pass a NO DISPUTE AWARD. It is clear that the workman has already been promoted by DPC by the management. The petitioner has mentioned in the application that he does not want to contest the case further any more. In the prevailing facts and circumstances of the case it is not advisable to keep the record pending any more as they do not want to contest this Dispute. As such it is hereby.

ORDERED

that let a “NO DISPUTE AWARD” be and the same is passed. Send the copies of the Award to the Govt. of India, Ministry of Labour and Employment, New Delhi, for information and needful. Reference is accordingly disposed of.

Md. S. KHAN, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2007

का. आ. 3038.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत को ओ. बैंक लि. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक

अधिकरण सं. 2, मुम्बई के पंचाट (संदर्भ संखा 07/2005) को प्रकाशित करती है, जो केंद्रीय सरकार को 20-9-2007 को प्राप्त हुआ था।

[सं. एल-12011/16/2004-आई आर (बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 20th September, 2007

S.O. 3038.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 07/2005) of the Central Government Industrial Tribunal No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of Bharat Co-Op. Bank Ltd. and their workmen, which was received by the Central Government on 20-9-2007.

[No. L-12011/16/2004-IR(B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT

A. A. Lad, Presiding Officer

Reference No. CGIT-2/7 of 2005

Employers in relation to the Management of the Bharat Co-Op. Bank (Mumbai) Ltd.

The Chief Executive Officer
The Bharat Co-op. Bank (Mumbai) Ltd.,
'Shivgiri', 1st Floor,
Plot No. 11, Samant Estate,
Goregaon(E),
Mumbai-400 063

AND

Their Workmen

The General Secretary
Co-operative Bank Employees' Union,
81/83, Shalini Palace,
Bhavani Shankar Road,
Dadar (W).
Mumbai-400 028

APPEARANCES

For the Employer : Mr. C. V. Pavaskar, Advocate
For the Workmen : Mr. A. P. Kulkarni, Advocate

Mumbai, dated 31st August, 2007

AWARD

Matrix of the facts as culled out from the reference are as under :—

1. The Government of India, Ministry of Labour, by its Order No. L-12011/16/2004 [IR(B-I)] dated 8-10-2004 in

exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 have referred the following dispute to this Tribunal for adjudication :

"Whether Shri Umesh G. Kotian, Shri Tharanath S. Amin, Shri Naveen J. Suvarna and Shri Naresh T. Amin, working as officer in the bank are workmen as per provisions of Section 2(s) of the Industrial Disputes Act, 1947 ?

2. If so, whether the action of the management of the Bharat Co-op. Bank (Mumbai) Ltd., Mumbai in dismissing the services of Shri Umesh G. Kotian, Shri Tharanath S. Amin, Shri Naveen J. Suvarna and Shri Naresh T. Amin, Shri Suresh A. Kunder and Shri Krishna T. Poojary is legal, proper and justified ? if not, what relief these 6 workmen are entitled and from which date ?

2. Claim statement is filed at Ex-7 by concerned workmen which is challenged by first party by filing written statement at Ex-8.

3. Meanwhile, union filed application Ex-10 pointing out that, present reference be disposed of in view of the judgment of Division Bench of Hon'ble Bombay High Court in Writ Petition No. 323 of 2003 published in 2005 (II) CLR page 216 where Hon'ble Bombay High Court observed, in case of Co-operative Bank, State Government is appropriate Government and not Central Government. It is replied by first party by Ex-11 stating that they have moved the Apex Court for reviewing as they are of the view that, Central Government is the appropriate Government. Again by application Ex-12, Union prayed to treat application (Ex-10) as 'not pressed' by union and permit to withdraw the same and also request the Tribunal to proceed ahead with reference if Central Government is declared as appropriate Government.

4. From these pleadings and arguments advance by both on these applications, where both concealed that, at present, decision of Hon'ble High Court of Bombay is upheld by Supreme Court, where it is observed that, State Government is the appropriate Government in case of Co-operative Banks and not Central Government. So it is requested that, this Court has no jurisdiction and dispose of the reference.

5. Relying on this, I proceed to pass the following order :

ORDER

Reference is disposed of for want of jurisdiction.

Date : 31-8-2007

A. A. LAD, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2007

का. आ. 3039.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारत को, ओ. बैंक लि. के प्रबंधनात्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, मुम्बई के पंचाट (संदर्भ संख्या 31/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2007 को प्राप्त हुआ था।

[सं. एल-12011/65/2001-आई आर (बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 20th September, 2007

S.O. 3039.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2002) of the Central Government Industrial Tribunal No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of Bharat Co-Op. Bank Ltd. and their workmen, which was received by the Central Government on 20-9-2007.

[No. L-12011/65/2001-IR (B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT

A. A. Lad, Presiding Officer

Reference No. CGIT-2/31 of 2002

Employers in relation to the Management of The Bharat Co-Op. Bank (Mumbai) Ltd.

The Chief Executive Officer
The Bharat Co-op. Bank (Mumbai) Ltd.,
'Shivgiri', 1st floor,
Plot No. 11, Sarnant Estate,
Goregaon(E),
Mumbai-400 063.

AND

Their Workmen

The General Secretary
Co-operative Bank Employees' Union,
81/83, Shalini Palace,
Bhavani Shankar Road,
Dadar (W),
Mumbai-400 028

APPEARANCES

For the Employer : Mr. C. V. Pavaskar, Advocate
For the Workmen : Mr. A. P. Kulkarni, Advocate

4052 GI/2007—10

Mumbai, dated 31st August, 2007

AWARD

Matrix of the facts as culled out from the reference are as under :—

1. The Government of India, Ministry of Labour, by its Order No. L-12011/65/2001 [IR(B-I)] dated 18-3-2002 in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Dispute Act, 1947 have referred the following dispute to this Tribunal for adjudication :—

"Whether the dispute raised by the Co-operative Bank Employees Union, Mumbai against the management of The Bharat Co-operative Bank Ltd., Mumbai regarding non-promotion of officers to the post of Superintendent is an industrial dispute under Section 2 (k) of the I.D. Act, 1947 ? If so, whether the action of the management in not promoting the officers those who have completed 2 years of tenure to the post of Superintendent in contrary to the usual practice is justified ? If not, what relief they are entitled ?"

2. Claim statement is filed at Ex-8 by concerned workmen which is replied by first party by filing written statement at Ex.-9.

3. Issues are framed at Ex-13 and matter was kept for recording evidence.

4. Meanwhile, in this case first party by Ex-20 request to give longer date since it is thinking to file review in Apex Court on the decision taken in Civil Appeal No. 1542 of 2007 wherein State Government, is declared as a appropriate Government in case of Co-operative Bank. By application Ex-21 again first party prayed to dispose of this reference relying on the decision given in Civil Appeal No. 1542 of 2007 by Apex Court saying since this Court has no jurisdiction and request to dispose of this reference, has produced the citation published in 2007 (II) CLR page 160. Exhibit-20 was then not pressed by Advocate for first party.

5. Heard both i.e. advocate Shri C. V. Pavaskar for first party and Shri A.P. Kulkarni, Advocate for Second party who agreed that, in view of the judgement produced by first party referred above, State Government is the appropriate Government and this Court has no jurisdiction.

Relying on this, I proceed to pass the following order :

ORDER

Reference is disposed for want of jurisdiction.

Date : 31-8-2007

A. A. LAD, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2007

का. आ. 3040.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कर्नाटक बैंक लि. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, बंगलौर के पंचाट (संदर्भ संख्या 93/1989) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-9-2007 को प्राप्त हुआ था।

[सं. एल-12012/40/1983-आई आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 20th September, 2007

S.O. 3040.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 93/1989) of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the Industrial Dispute between the management of Karnataka Bank Ltd. and their workmen, which was received by the Central Government on 20-9-2007.

[No. L-12012/40/1983-IR (B-I)]
AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 12th September 2007

Present :

Shri A.R. Siddiqui, Presiding Officer

C.R. No. 93/1989

I Party	II Party
Shri M.B. Ghorpade, Near Datta Temple. Jankandi, Bijapur Dist-587 301 Karnataka State	The Chairman, Karnataka Bank Limited, Head Office, Kodiabail, Mangalore-575 003 Karnataka State

AWARD

1. The Central government by exercising the powers conferred by clause (d) of sub-section 2A of the Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-12012/40/83-DIVA dated 11th December 1989 for adjudication on the following schedule :

SCHEDULE

“Whether Shri M.B. Ghorpade whose services have been terminated w.e.f. 21-11-1981 by the management of Karnataka Bank Limited is a workman under the Industrial Disputes Act, 1947 and if so, whether the

action of the management of Karnataka Bank Limited in terminating his services is justified ? If not, to what relief the workman concerned is entitled ?”

2. Initially the Govt. of India refused to make a reference to the dispute raised by the first party on the ground that the first party was not a workman as defined under Section 2(s) of the Industrial Disputes Act, 1947, hereinafter shortly referred as “Act”.

3. Having aggrieved by this refusal the first party filed a writ petition in WP No. 3848/84. A learned Single Judge of High Court of Karnataka by the order dated 3-10-1989 allowed the writ petition and directed the union of India to refer the dispute for adjudication as the jurisdiction to decide this controversy is on the Labour Court or the Industrial Tribunal. Thereafter the above reference is referred to this tribunal.

4. On a reading, the reference is in two parts. First part required the first party to prove that he was a workman when his services are terminated. After giving a finding on this question the tribunal is asked to give a finding regarding the justification of the Second Party in terminating the services of the first party.

5. The contention of the first party as regard to the first question is that he was appointed as a Clerk in the year 1957 and was in the continuous employment of the bank till 21-11-1981, the day on which his services are terminated. He was handling correspondence with the head office and branches of the bank. He was entering in Ledgers the different statements received from various branches of the bank. As he was exclusively doing the work of Clerk he was a workman within the meaning of Section 2(s) of the Act. The designation of “officer” was of no consequence in determining his status as an employee and he was a workman within the meaning of Section 2(s) of the Act. His further contention is that his termination amounts to retrenchment and therefore, he is entitled for all benefits including back wages. The first party, as it regards to the first part of the schedule, placed materials stated above only. Second Part in the pleadings confined to the question related to his removal from the service and connected incidents.

6. Coming to the merits of the case, while challenging the termination order dated 21-11-1981 passed by the Second Party/Management, the first Party in his Claim Statement alleged that he received an order of transfer dated 1-9-1980 from the head office transferring him from his native place Jamkhandi to the Regional Office at Hubli. He made a representation dated 15-9-1980 to the General Manager, Head Office, Mangalore explaining his difficulties in not obeying the transfer orders and requested the management to cancel the transfer order. His request was not considered and therefore, he sent another representation dated 4-6-1981 to the Chairman of the Bank, Head Office, Mangalore bringing to his notice the hardships

and sufferings he had to undergo on account of the transfer order. His representation dated 4-6-1981 was not properly understood and appreciated by his superiors and therefore, the General Manager by his letter dated 20th July 1981 called upon the first party to tender his unconditional apology for having used insulting language in his aforesaid representation. The first party did not feel it necessary to tender apology, as he never intended to insult or hurt the feelings of the Chairman or anybody else and submitted his explanation to the above effect in respect in response to the said letter. However, the General Manager vide his memorandum dated 19-11-1981, suddenly, informed the first party that he is discharged from the services of the bank as per Board's Resolution dated 18-11-1981 and he was ordered to be relieved from service w.e.f. 21-11-1981. A sum of Rs. 7,309.50 was sent to him by way of demand draft enclosed with the said discharge order; that the first party did not encash the said demand draft and did not accept the order discharging him from service, it being not legal and valid. The first party therefore, at para 5 of the Claim statement has challenged the aforesaid discharge/termination order on the grounds that it amounts to retrenchment within the meaning of Section 2(oo) of the ID Act, there being no compliance of Section 25 F of the said Act; that the discharge is not bona fide and no valid reason or cause not considering his unblemished service of about 24 years; that the discharge is arbitrary, unfair, unjust and inequitable amounting to an act of victimisation and unfair labour practice punishing him for his legitimate Trade Union activities; that the memorandum dated 20-7-1981 issued to the workman earlier was based on the allegation that he committed some misconduct; that the management action suffered from mala fide and his termination order came to be passed by the management only for the reason that he did not give unconditional apology as asked for by the management. Therefore, the order of discharge is illegal and unjustified much less in violation of principles of natural justice and in the result, it is liable to be set aside with a direction to the management to reinstate him in service with full back wages and continuity of service and other consequential benefits.

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7. The management by way of its counter statement, while, challenging the maintainability of the reference before this tribunal in the first instance took up the contention that the first party is not a 'workman' as defined under the ID Act and therefore, this court has no jurisdiction to decide the point of reference. The management contended that the first party was appointed as an Accountant in the Bank of Karnataka and the said bank was merged with the Second Party/Management Bank and he was given the grade of an Officer which grade is quite different and distinct than that of a Clerk. He was transferred to Regional Office at Hubli in the month of September 1980. Thereafter the management at Para 1(a) of the Counter Statement gave the details of the functions and duties to be discharged by

the first party in the capacity of an officer. At Para 4, of the Counter statement, the management contended that the reference involved the first question as to whether the first party is a workman or not and in case the court gives the decision on the said question holding the first party as a 'workman' as defined under the ID Act, then the management may be given an opportunity to lead evidence to show that the discharge of the first party from service was justified and that it did not amount to 'retrenchment' as contended by the first party. The management by way of additional counter statement contended that there is no termination of services of the first party by the management w.e.f. 21-11-1981 as described in the reference schedule. At Para 2 the management contended that the first party was transferred from jamkhandi branch to Regional Office, Hubli but he failed to join duty in the transferred post deliberately having applied for leave on medical grounds with an intention to disobey the transfer order. His transfer was in routine course not activated by any motive, malice or any ill will or any mala fide intention much less to put the first party under any hardship or inconvenience; that the first party made serious allegations against the Chairman of the management stating that his act was "inhuman" and amounts to harassment. Therefore, the language used by the first party in addressing a letter to the Chairman was absolutely improper, unbecoming of a subordinate and unwarranted much less realistic in as much as it does not give any right to the first party to make such serious allegations even if, he was put to certain inconvenience unavoidable under the facts and circumstances of the case. At para 3 of the Counter Statement the management came out with the further allegations of misconduct against the first party as under :

"That the conduct of the first party in past was not at all satisfactory. The first party used to remain unauthorisedly absent without any prior intimation or submitted any leave application, causing inconvenience and dislocation of office work. The first party was given ample opportunity to improve his conduct. The first party did not improve his conduct. The second party was constrained to take unavoidable step of discharging the first party from service earlier once, i.e. with effect from 22-2-1973. However the second party considering the plea of the first party on humanitarian grounds, reinstated him into the services with effect from 1-10-1973 treating the intervening period as leave on loss of pay. The first party misused the sympathy shown by the second party and further he went on indulging in acts of insubordination and indiscipline. The first party had issued a cheque without balance in his account. The first party admitted the charge of having committed the misconduct. The second party taking a lenient view of the same warned him by order dated 2-3-1976. The first party again continued the same

habit of remaining absent inspite of the advice by the second party as per order dated 6-7-1976. There were also complaints against the first party that when he was working at the Regional Office, he instigated colleagues not to work. This has caused loss of confidence on him by the second party. The first party had even extended credit facility to some of the parties of his choice unauthorisedly, when he was working at Talikot branch against the interest of the bank. On this occasion also the second party took lenient view in the matter and set right the things. The first party even in the year 1981 remained absent from office from 3-8-1981 to 8-8-1981. He reported for duty on 10-8-1981. But unlawfully signed the attendance register for the period of his absence from 3-8-1981 to 8-8-1981 subsequently. The first party even created documents to cover up his lapses. The first party has absolutely lost sympathy and confidence on him by the second party. Inspite of sufficient leniency and indulgences given to him, the first party did not show any improvement. Therefore, the second party left with no other alternative but to discharge him from service and a simple discharge was made with effect from 19-11-1981. There is no stigma attached to the order of discharge from service dated 19-11-1981. The second party is justified in discharging the first party from service considering the past record and in the best interest of the institution. The order of discharge dated 19-11-1981 is proper and legal. The first party is not entitled for reinstatement or any benefits as claimed by him.”

8. Therefore, having regard to the point of reference, this tribunal in the first instance took up the question as to whether the first party is a workman as defined under Section 2(s) of the ID Act, so as to maintain the present reference. During the course of trial of this preliminary issue, the management examined two witnesses as MW 1 & 2 and during their deposition, got marked as many as 33 documents at Ex.M1 to M33. The first party examined himself as WW1 and in his affidavit got marked 2 documents at Ex.W1&2. Based upon the aforesaid oral and documentary evidence and hearing the learned counsels for the respective parties, this tribunal by award dated 20-8-1999 rejected the reference holding that the first party was not a workman and this tribunal had no jurisdiction to entertain the reference. It is aggrieved by this award the first party approached the Hon'ble High Court in Writ Petition No. 44281/99 and the Hon'ble High Court by order dated 21-2-2003 set aside the above said award remitting the matter back to this tribunal to dispose of the matter afresh permitting the parties to adduce further evidence, if any, within a period of three months from the date of receipt of the said order.

9. After the remand the case was once again taken up and parties were notified to the date of hearing. On

7-6-2004, Shri V S Naik filed power fro the first party and Shri R. Upadhyaya appeared for the second party/management. On 14-7-2004, learned counsel for the management submitted that he has no further evidence to lead and whereas, the learned counsel for the first party filed an affidavit by way of evidence as further examination chief of the first party. He was cross-examined on behalf of the management and document at Ex.W3 was marked in his cross-examination.

10. After having heard the learned counsels for the respective parties, this tribunal by order dated 11-3-2005 passed an order on the above said Preliminary issue recording a finding to the effect that the first party is a ‘workman’ with the meaning of Section 2(s) of the ID Act, and the matter came to be posted to hear the parties on merits. Thereupon, the matter came to be adjourned and in the meantime it appears that the management approach the Hon'ble High Court challenging the order passed by this tribunal holding the first party as a ‘Workman’ and this court received orders from the Hon'ble High Court staying further proceedings till further orders. On 13-4-2007, this tribunal received the order dated 10-1-2007 passed by the Hon'ble High Cour in the aforesaid Writ Petition upholding the order of this tribunal dated 11-3-2005 and remanded the matter back to this tribunal for fresh disposal on merits of the case i.e. with regard to the validity of termination order dated 18-11-1981 passed by the management against the first party with a direction to this tribunal to dispose of the matter not later than six months from the date of receipt of the copy of this order and today is the last day to dispose of the matter on merits of the case.

11. After the remand, once again, both the parties were given opportunity to lead further evidence or to file additional pleadings. When the matter was taken up on 7-6-2007, learned counsel for the management submitted that he has no further evidence to lead and the learned counsel for the first party being absent, the matter came to be posted for arguments. After having heard the learned counsels or the respective parties finally on 21-8-2007, the case is posted this day for award.

12. Learned counsel for the management Shri R. Upadhyaya vehemently argued that the memorandum of discharge dated 19-11-1981 marked before this tribunal at Ex.M32, terminating the services of the first party is based upon the resolution passed by the Board of the management vide Ex.M31 and this discharge order infact came to be passed by the management assuming the first party to be an officer and therefore, this being a simple discharge was very much in compliance of Clause 27 of “Karnataka Bank Officer's Service Rules” of the management vide Ex.W1. Learned counsel further submitted that since the tribunal now has given a finding to the effect that the first party is a ‘workman’ as defined under Section 2(s) of the ID Act, it will be in the interest of justice to refer the matter back to

the Disciplinary Authority for fresh enquiry into the allegations of misconduct committed by the first party. He contended that the fact that the first party by way of his representation addressed to the Chairman of the management bank made serious allegations stating that his act in transferring him was 'inhuman' has not been disputed by the first party, it is to be held that he is guilty of the misconduct in using indecent and abusive words against his superiors and therefore, on this ground itself, his termination can be held to be legal and valid even otherwise. Learned counsel to support his arguments, cited a ruling reported in 2006 LLR Page 269 SC—L.K. Verma Vs. HMT & Another.

13. Whereas, learned counsel for the first party in his arguments submitted that the impugned discharge order is not a simple discharge but based upon the various allegations of misconduct levelled against the first party as per the very resolution at Ex.M31, the basis for the above said discharge order at Ex.M32. He submitted that the discharge order is very much silent as to on what grounds the services of the first party have been discharged except to refer to a resolution of the board dated 18-11-1981 and therefore, on the face of it the discharge order is illegal and unjustified liable to be set aside. He submitted that when as per the above said resolution at Ex.M31 and the very contentions of the management in the Counter Statement before this tribunal that the first party committed the gross misconduct in making the serious allegations against the superiors, remaining absent from duty unauthorisedly and indulging other such misconducts, the only proper recourse available to the management was to hold a DE and it is on the findings of the enquiry officer holding him guilty of the charges he must have been imposed with any penalty much less the penalty of termination from his services. Therefore, the learned counsel submitted that the first party has been removed from service without conducting any enquiry for the various charges of misconduct incorporated in the above said resolution which is the foundation of the discharge order at Ex.M32, he is entitled to get the relief of reinstatement along with other attendant benefits. He submitted that the first party has already reached the age of superannuation on 20-8-1991 and therefore, he may be given the benefits of back wages etc. from the date of impugned punishment order till the date he attained the age of superannuation.

14. After having gone through the records, I do not find substance in the arguments advanced for the management. First of all as argued for the first party the discharge order dated 19-11-1981 at Ex.M32 cannot be said to be a simple discharge order. Though in the aforesaid discharge order so to say memorandum dated 19-11-1981, no reasons have been given nor any misconduct was alleged against the first party, it cannot be said that it is a simple discharge order. Undisputedly, this is the discharge order based upon the resolution at Ex.M31, marked before

this tribunal on behalf of the management. The wordings of the aforesaid resolution are in tune with the aforesaid contentions of the counter statement filed by the management where under several allegations have been made against the first party for his past service as well as his unauthorised absence from duty on several occasions and the fact that he used harsh words rather made a serious allegation against his superior, terming his action as 'inhuman', there are also other allegations incorporated in the said resolution stating that he disobeyed the transfer order that there are lot of complaints about his working even in Regional Office, that he undisputedly extended credit facilities to some of the parties of his choice against the interest of the bank; that he deliberately misplaced some slip bundles with a view to delay the tallying work; that he signed the attendance register from 3-8-1981 to 8-8-1981 did not attend duty on those dates etc. Therefore, as argued for the first party the aforesaid discharge order is not a simple discharge but it was based upon the resolution which incorporated several allegations of misconduct against the first party. This discharge order could not have come into the existence, if there was no such resolution passed by the Board making serious allegations of misconducts against the first party. Therefore, the above said resolution being a foundation for the above said memorandum of discharge, the management now cannot be allowed to say that the above said discharge order does not attach any stigma to the conduct of the first party and that it is a simple discharge order. The arguments advanced for the management that there was compliance of Clause 27 of the aforesaid Karnataka Bank Officers' Service Rules marked before this tribunal at Ex.W1 in terminating the services of the first party on its face, itself, deserves to be rejected. The very reading of the above said clause 27(a) would make it abundantly clear that the management has got powers to terminate the services of a permanent officer by giving him three months notice etc. In this case as noted above, the management terminated the services of the first party treating him as a permanent officer and not as a 'Workman' as defined under Section 2(s) of the ID Act. The rules in question undisputedly, are applicable to the officers working under the management bank and since the first party has been held to be a 'workman' under the said Act, they cannot be invoked to be applied to his case. The submission made by the learned counsel for the management that in the light of the finding given by this tribunal holding that the first party as a "workman", it is better to refer the matter back to the management for fresh enquiry into the matter, in my opinion holds no substance. The management though as noted above, in its counter statement infact, had sought permission of this tribunal to lead evidence to substantiate the order of discharge passed against the first party in case, he was held to be a 'workman' but after the matter came to be remanded to this tribunal upholding the orders of this tribunal holding the first party as a workman as defined under the Act, there was no request

made on the part of the management or any evidence as such adduced on its part to substantiate the charges of misconduct of any nature leveled against the first party. Moreover, at this juncture of the case, it will be futile to refer the matter back to the management for fresh enquiry into the matter particularly, when the first party has already attained the age of superannuation as far back as in the year 1991. The argument for the management that the very fact that the first party did not dispute of his making serious allegation against the superior in the words 'inhuman' must be taken to be a misconduct proved against him for having used those words amounting to indecent and abusive language. I am not inclined to agree with the aforesaid arguments. The word 'inhuman' used by the first party under the facts and circumstances of the case at the most can be said to be unparliamentary and unwarranted. It cannot be termed to be abusive or filthy words amounting to misconduct in any sense. Therefore, neither the aforesaid arguments advanced by the management nor the principle laid down in the aforesaid citation on its behalf will come to the rescue of the management. Moreover, in the decision quoted above, the management in fact held the Domestic Enquiry against the delinquent concerned and it is on the proof of charge of misconduct of the abusive words used by the delinquent, he was dismissed from service. Whereas, in the instant case as noted above, there has been no DE conducted against the first party, issuing any chargesheet against the first party to the effect that he used indecent and abusive language against his superior amounting to any misconduct under the rules and regulations of the management bank. In the result, it goes without saying that the termination/discharge order passed against the first party is illegal and unjustified and therefore, is liable to be set aside by this tribunal.

15. Now, coming to the relief to be granted to the first party. As noted above, he has already attained the age of superannuation as on 20-8-1991. There is no evidence produced on behalf of the management to suggest that the first party has been gainfully employed when he was away from its services. The statement of first party in his affidavit that he has not been gainfully employed throughout the period he was out of the services of the management has remained uncontested and unchallenged. Therefore, he must be entitled to full back wages from the date of impugned punishment order till the date he attained the age of superannuation along with relief of continuity of service and all other consequential benefits. Hence the following award :

AWARD

The management is directed to pay full back wages to the first party at the rate of his last drawn wages as on the date of impugned punishment order till the date he attained the age of superannuation with continuity of service and all other retirement benefits within a period of six months from the date of

publication of this award or else, the amount due to the first party shall carry interest at the rate of 10 per cent per annum till its realisation. No costs.

(Dictated to PA, transcribed by her, corrected and signed by me on 12th September 2007)

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2007

का. आ. 3041.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार साझे सेन्ट्रल रेलवे के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण, बैंगलौर के पंचाच (संदर्भ संख्या 41/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 20-09-2007 को प्राप्त हुआ था।

[सं. एल-41012/50/2001-आई. आर (बी-1)]

अजय कुमार, डेस्क अधिकारी

New Delhi, the 20th September, 2007

S.O. 3041.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.41/2003) Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the Industrial dispute between the employers in relation to the Management of South Central Railways, and their workmen, which was received by the Central Government on 20-09-2007.

[No. L-41012/50/2001-IR (B-I)]

AJAY KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BANGALORE

Dated : 5th September, 2007

PRESENT

Shri A.R. Siddiqui, Presiding Officer

C.R. No. 41/2003

I PARTY

Shri B.S. Paul,
C/o Shri Ashok V. Singanmalli
D-1, 1st Floor, Shinde
Complex, Neelgiri Road,
Hubli-580029

II PARTY

The Divisional Railway
Manager (P),
South Central Railways.
Hubli

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of Section 10

of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-41012/50/2001-IR (B-I) dated 7th July 2003 for adjudication on the following schedule :

SCHEDULE

“Whether the action of the Management of South Central Railways in imposing the penalty of removal from service on Shri B.S. Paul, is justified. If not, what relief the applicant concerned is entitled to?”

2. A chargesheet dated 19-10-1989 came to be issued against the first party workman in the following terms :—

“Chargesheet :—Article I.—That the said Shri B.S. Paul Sub P/man while on duty from 19 hrs on 13.07 to 7 hrs on 14-7-1989 at South Cabin has failed to give PN for point set against the blocked line for train No. KOP 10 Goods when there was crossing of train No. 83.

Article-II :—The said P/man has failed to make entries of train and the PNs which he had given were not entered in the PN Exchange register. He has refused to hand over the duty to his reliever, Shri David Dazil and refused to leave the cabin. He was found under the influence of alcohol and he was examined and certified by ADMO/GPR. Thus he has filed to maintain the absolute integrity and devotion to duty and contravened the rule No. 3(1)(i)(ii) and No. 22 (d) & (b) of Railway Service (Conduct) Rules, 1966.”

3. It appears that there being no reply to the said chargesheet from the first party, a Domestic Enquiry was ordered against him and on the basis of the enquiry findings holding him guilty of the aforesaid charges, he was removed from service.

4. The case of the first party workman as made out in the claim statement, in brief, is that he was appointed as a Pointman by the management on 12-04-1983 and his services came to be terminated w.e.f. 16-07-1990 on the basis of charges of misconduct leveled against him. He preferred an appeal against the impugned punishment order and that came to be rejected without his case being considered and then he raised an industrial dispute ending in failure report and an endorsement by the Government refusing to refer the dispute to this Tribunal. He then preferred a Writ Petition No. 448/2002 against the said endorsement which came to be allowed by the Hon'ble High Court on 01-04-2003 and it is under the directions of the Hon'ble High Court, the Government of India referred the present proceedings vide order dated 07-07-2003. The first party contended that the enquiry proceedings conducted against him were against the principles of natural justice and that the entire action of the management was in violation of Rules of Natural Justice in as much as enquiry was conducted in an objective manner without giving any opportunity to the first party workman to defend himself. He contended that the management's action tantamounts

to unfair labour practice and the penalty of removal from service is shockingly disproportionate having regard to the facts and circumstances of the case. Therefore, he requested this tribunal to pass an award granting him the relief of reinstatement, back wages, continuity of service and other consequential benefits.

5. The management by its counter statement after having repeated the allegations of misconduct made in the chargesheet, further contended that against the said chargesheet enquiry was conducted and during the course of enquiry charges were proved against the first party and thereafter Disciplinary Authority imposed the penalty of removal from service by order dated 16-07-1990; that the appeal preferred by the first party came to be rejected by order dated 16-10-1990. His revision petition was also dismissed by order dated 13-11-1990; that after having exhausted all the remedies available to him the first party has preferred the present dispute after a gap of 10 years resulting into the failure report with an endorsement by the Govt. refusing to refer the matter to this tribunal. However, the first party having approached the Hon'ble High Court, got issued directions to the Govt. for reference of the dispute to this tribunal. The management at Para 7 of the Counter Statement contended that the first party was negligent in discharging his duties as a Pointman and since his misconduct found to be serious in nature as he was found under the influence of alcohol, while, on duty and refused to make necessary entries and hand over the charge to Mr. David Dazil, the management was justified in removing him from service. In the result, the management requested this tribunal to reject the reference.

6. Keeping in view the respective contentions of the parties with regard to the validity and fairness or otherwise of the enquiry proceedings, this tribunal on 28-02-2005 framed the following Preliminary Issue :

“Whether the domestic enquiry conducted against the first party by the second party is fair and proper?”

7. During the course of trial of the said issue, the management examined the enquiry officer as MW1 and got marked 11 documents at Ex. M1 to M11. The first party examined himself as WW1 and after hearing the learned counsels for the respective parties, this tribunal by order dated 21-06-2006 recorded and finding to the effect that the enquiry conducted against the first party by the second party is not fair and proper. Thereupon, the management examined two witnesses as MW2 & MW4 (affidavit of MW3 was not pressed) and in the deposition of the MW2 got marked documents at Ex. M12 to M14 and in the deposition of MW3 got marked documents at Ex. M15 to M21. Ex. M22 was marked during the course of cross examination of the first party. The first party once again examined himself by giving his affidavit evidence without getting marked any documents. Now, therefore, in the light

of the finding recorded by this tribunal that the DE held against the first party by the Second party was not fair and proper, the management was required to establish the charges of misconduct leveled in the chargesheet by producing fresh oral and documentary evidence before this tribunal.

8. MW2 in his affidavit evidence has deposed to the fact that as on 13-07-1989 while he was working as a Station Master incharge Shindawane Station and was at home after his duty hours, he received information from ASM on duty at about 8.50 P.M. that Shri Paul (the first party) who was on duty as Cabin man refused to give PN for having set points against the blocked line as there was crossing of other trains and he was further informed that both the cabin men were suspected in the state of intoxication. On receipt of information, he rushed to the spot immediately and found that the information he received was correct and no entries were made with regard to the train already arrived in PN Exchange Register. Therefore, he asked the first party to hand over the charge to Shri David Basil but he refused to leave the cabin and hand over the charge. Then he sent the message to ADMO for medical examination of the first party and a message to AOS/M/UBL for further action in the matter. In his further examination chief he identified the message given by the Asstt. Station Master to ADMO and the message given by him to AOSMO, Hubli and the report given by the station master which were marked at Ex. M12 to M14 respectively. In his cross examination nothing worth was elicited from the said witness so as to doubt the veracity of his statement as far as the happening of the about said incident on 13-07-1989. The only suggestion was made to this witness was that Ex. M12 did not bear the signature of the author of the said document namely, Shri N.S. Rajkumar and that it was created for the purpose of this case and this suggestion was denied by the witness. The suggestions made to this witness that he did not give any report about the incident in question and that he had no personal knowledge about the incident were also denied by the witness. He denied the suggestion that on 13-07-1989 the first party performed his duty properly.

9. MW 4 filed an affidavit just to repeat the various contentions taken by the management in the counter statement and the allegations made against the first party by way of chargesheet. In his cross examination he admitted that he is not personally aware about the incident said to have taken place on 14-07-1989 (ought to have been 13-07-1989).

10. Therefore, it is to be noted that the only material evidence brought on record during the course of trial before this tribunal by the management is the aforesaid affidavit statement of MW2, Shri SS Talloli who was the incharge Station Master on the date of the incident and who visited the spot after having received the message from Assistant Station master during the said night. The documents

produced and marked by the management in the further examination chief of MW2 at Ex. M12 to M14 are as follows :—

- (1) Ex. M12 is the message dated 13-07-1989 to ADMO/GPR, AOS/M/UBL etc.
- (2) Ex. M13 is the copy of the message dated 05-09-1989.
- (3) Ex. M14 is the report dated 5-09-1989 to DOS/UBL.

11. The other documents marked at Ex. M15 to M21 in the further examination chief of MW3 vide letter dated 21-11-2006 are as under :—

1. Ex. M15 is From No. A dated 14-07-1989 issued by Asstt. Divisional Medical Officer SC Railway, Ghorpuri.
2. Ex. M16 is the Alcohol examination certificate issued by Asstt. Chemical Analyser Forensic Laboratory, Pune dated 17-07-1989.
3. Ex. M17 is the covering letter forwarding the blood test reported dated 20-07-1989.
4. Ex. M18 is the letter dated 16-08-1989 seeking payment of Rs. 100/- towards laboratory tests.
5. Ex. M19 is the suspension order passed by Asstt. Operating Superintendent dated 21-07-1989.
6. Ex. M20 is the order dated 16-07-1999 imposition of penalty.
7. Ex. M21 is the acknowledgement for having served the penalty order.

12. The documents marked during the course of cross-examination of the first party is the true copy under the signature of the first party of his appeal memo made against the impugned punishment order.

13. Learned counsel for the management taking support of the statement of MW2 as an eye witness to the incident and his reports of incident at Ex. M13 and M14 vehemently contended that the management has proved beyond any reasonable doubt the fact that in between the night of 13-07-1989 and 14-07-1989 the first party was on duty as a Cabinman and failed to discharge his duties. He submitted that the statement of MW 2 has not been shaken or disputed on behalf of the first party in a serious manner as nothing worth was elicited from his mouth during the course of cross-examination disputing the fact of incident except to say the incident itself did not take place. Learned counsel also relied upon the statement of first party in his cross-examination to suggest that infact such an incident took place and MW 2 after having received the information of the incident visited the spot and thereafter made a report of the incident accordingly. With regard to the Second

Charge as to whether the first party was found under the influence of Alcohol and refused to leave the cabin handing over charge to Mr. David Basil. Learned counsel once again took support of the statement of MW 2 and the Alcohol examination certificate issued by the Assistant Medical Analyser, Regional Science Laboratory, Pune dated 17-07-1989 marked at Ex. M16 certifying to the effect that the first party was found under the influence of Alcohol when his blood was tested.

14. Whereas, learned counsel for the first party vehemently argued that the oral and documentary evidence produced by the management is not very much cogent, sufficient and satisfactory to hold the workman guilty of the charges. His contention was that Ex. M12 is said to be the basis for the charge sheet and this message at Ex. M12 itself, has not been signed by the Assistant Station Master who is said to have sent such a message to the authority concerned. His next contention was that the eyewitness to the incident has not been examined and that the statement of MW 2 before this tribunal is not worth credence as he happened to be at home when the incident in question said to have taken place. He also challenged the aforesaid Alcohol examination certificate on the ground that it cannot be read in evidence for the reason that first of all the Doctor who issued the said certificate has not been examined and secondly, it was the document marked in further examination chief of MW 3 whose statement by way of affidavit came to be withdrawn by the management, subsequently.

15. After having gone through the records, more particularly, the statement of MW 2 and the reports made by him at Ex. M13 & 14 coupled with the report at Ex. M12, I am of the opinion that the first part of charge levelled against the first party to the effect that he failed to discharge his duties as a Cabinman has been very much established. As noted above, MW 2 in his affidavit evidence in no uncertain terms has stated that he being an incharge station master having finished his duty, while, was at home, received the information from the Assistant Station Master with regard to the incident on hand and then rushed to the spot and got confirmed the fact that the first party as a Cabinman did not make entries giving PN for point set against the block line for KOP 10. He failed to make the entry in PN Exchange Register. This statement of MW2 as noted above, has not been very much shaken in his cross-examination. Absolutely, no suggestion was made to this witness attributing any motive as to why he should give a false statement against the first party. That apart, as argued for the management the first party in his cross examination admitted that the then Station Master Mr. S.S. Talloli (MW 2) had visited his Cabin on that night but he deined the suggestion that he was asked to give the charge to Mr. David Basil. Therefore, by the above said statement, the first party indirectly has admitted that some incident had taken place during the night in question. The first party

wanted to justify his action in not making the entries in the relevant register by saying that during the said night there was no light in the Cabin and he had no matchbox with him to lit the lamp, thereby, once again, the first party indirectly did not dispute the fact that during the said night he failed to make entries in the register concerned. The contention of the first party that Ex. M 12 was not signed by the Assistant Station Master and he was not examined as an eye witness to the incident, in my opinion appears to be devoid of any substance for the simple reason that Ex. M12 appears to be the true copy of the original message statement given by the Assistant Station Master and it has got the seal and signature of the Station Master. Above the name of Shri N.S. Rajkumar who was then working as an Assistant Station Master there is a note as "Sd" and therefore, it is to be noted that this was the message infact signed by the said ASM and was received by the Station Master. Therefore, having regard to the facts mentioned in the aforesaid documents at Ex. M12 to M24, corroborated and supported by the statement of MW2, this court has got no hesitation in its mind to come to the conclusion that the first part of the charge of misconduct levelled against the first party has been very much substantiated and proved.

16. The Second Part of the charge that the first party was found under the influence of Alcohol at the relevant point of time cannot be taken to be proved in the light of the above said Alcohol Examination certificate produced by the management. Firstly, for the reason that the Director who examined the first party and tested his blood and thereafter issued such a certificate has not been produced before this tribunal. Secondly, this is the document which was not spoken to either by MW2 or by MW 4. It was marked during the course of further examination chief of MW3, whose statement in examination chief came to be withdrawn lateron by the management on the ground that he was not available for cross-examination. Therefore, I must record a finding on this part of the charge in the 'Negative' accordingly.

17. Now comes the question of quantum of punishment. As per the very contention of the management in their counter statement at para 7 noted above, the first party was negligent in discharging his duties as a Pointman. Therefore, since the first part of the said charge that he did not perform his duties as a Cabinman has been proved and this misconduct on the part of the first party amounts to negligence in discharging his duties, the punishment of removal from service imposed upon him by the management, in my opinion, appears to be shockingly disproportionate. Keeping in view the gravity of the misconduct committed by the first party it appears to me that ends of justice will be met if he is punished with lesser and minor punishment such as denial of back wages to him and withholding his annual increments for certain periods. It is to be noted at this juncture that the first party

cannot be given benefit of back wages from the date he was removed from service till the date he raised the dispute before the conciliation officer concerned. He has not given any explanation as to what prevented him in not raising the dispute for about a period of 10 years. He appears to have raised the dispute before the ALC concerned somewhere in the year 2000 and then approached the Hon'ble High Court in the aforesaid Writ Petition seeking reference from the Govt. in the year 2002. Therefore, for the period elapsed between the date of removal from service till he raised the dispute before the ALC(C), he cannot be granted any relief of back wages. He is denied relief of back wages from the date of reference till the date of reinstatement and his annual increment for four years to be withheld as a measure of punishment. Hence the following Award.

AWARD

The management is directed to reinstate the first party into its services without back wages and without continuity of service from the date of impugned punishment till the date of his reinstatement. His four annual increments are hereby ordered to be withheld with cumulative effect to be accrued to him from the date of reinstatement. No costs.

(Dictated to PA transcribed by her, corrected and signed by me on 5th September, 2007.)

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2007

का. आ. 3042.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स वेस्टर्न इंडिया शिप्यार्ड लि. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/प्रम न्यायालय नं.-2, मुम्बई के पंचाट (मंदर्भ संख्या 2/104/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2007 को प्राप्त हुआ था।

[सं. एल-36011/6/2005-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 20th September, 2007

S.O. 3042.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/104/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of M/s. Western India Shipyard Limited and their workmen, which was received by the Central Government on 19-9-2007.

[No. L-36011/6/2005-IR (B-II)]
RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II AT MUMBAI

PRESENT

A. A. Lad, Presiding Officer

Reference No. CGIT-2/104 of 2005

Employers in relation to the management of M/s. Western India Shipyard Limited,

The Managing Director,
M/s. Western India Shipyard Limited,
Mormugao Harbour,
Goa-403 803

...First Party

AND

Their Workman,

Shri Glen Godinho,
H. No. 297/A, "Gibano Cottage",
Near St. Theresa's School, Mangor Hill,
Vasco-da-Gama,
Goa-403 802

...Second Party

APPEARANCE

For the Employer : Mr. R. N. Shah, Advocate.

For the Workman : No appearance

Date of Reserving Award : 22nd August, 2007

Date of Passing of Award I : 22nd August, 2007

AWARD

The reference is sent to this Tribunal by the Under Secretary of Central Government. The Government of India, Ministry of Labour by its Order No. L-36011/6/2005-IR (B-II) dated 31st August, 2005 in exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 to decide :

"Whether the dismissal of Shri Glen Godinho from employment w.e.f. 24-7-2004 by the management of M/s. Western India Shipyard Limited is legal and justified ? If not, to what relief the workman is entitled to ?"

2. The notice was served on 2nd Party to appear in the Reference. However, nobody appeared in the Reference. Hence, the order :

REFERENCE

Reference is disposed of for want of prosecution.

Camp at Goa,
22nd August, 2007

A. A. LAD, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2007

का. आ. 3043.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स वेस्टर्न इंडिया शिप्यार्ड लि. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/प्रम न्यायालय नं.-2, मुम्बई के पंचाट (संदर्भ संख्या 2/12/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2007 को प्राप्त हुआ था।

[सं. एल-36011/16/2005-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 20th September, 2007

S.O. 3043.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 2/12/2006) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Mumbai as shown in the Annexure, in the Industrial Dispute between the management of M/s. Western India Shipyard Limited and their workmen, which was received by the Central Government on 19-9-2007.

[No. L-36011/16/2005-IR (B-II)]
RAJINDER KUMAR, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II AT MUMBAI

PRESENT

A. A. Lad, Presiding Officer

Reference No. CGIT-2/12 of 2006

Employers in relation to the management of M/s. Western India Shipyard Limited,

The Managing Director,
M/s. Western India Shipyard Limited.
Mormugao Harbour,
Goa-403 803

...First Party

AND

Their Workman,

Shri Milindra Naik,
H. No. 226, Near Simple Bar,
New Waddem,
Vasco-da-Gama,
Goa-403 802

...Second Party

APPEARANCE

For the Employer : Mr. R. N. Shah, Advocate.

For the Workman : No appearance

Date of Reserving Award : 22nd August, 2007

Date of Passing of Award I : 22nd August, 2007

AWARD

The reference is sent to this Tribunal by the Under Secretary of Central Government. The Government of India, Ministry of Labour by its Order No. L-36011/I6/2005-IR (B-II) dated 13th January, 2006 in exercise of the powers conferred by Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 to decide :

"Whether the claim of the disputant Shri Milindra Naik that he is a workman under Section 2(s) of the Industrial Disputes Act, 1947, if yes whether the claim of the Management of M/s. Western India Shipyard Limited, Goa to dismiss him from services w.e.f. 24-4-2004 is legal and justified ? If not, justified what relief is the disputant concerned entitled to ?"

2. Workman in person present in person and submit that he is unable to attend the Reference as he was staying abroad, for which he was instructed to file written pursis accordingly. However, he failed to do so and left the Court. Hence, the order :

ORDER

Reference is rejected for want of prosecution.

Camp at Goa,
22nd August, 2007

A. A. LAD, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2007

का. आ. 3044.—ऑद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इलाहाबाद बैंक के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ऑद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/प्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 30/2007) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2007 को प्राप्त हुआ था।

[सं. एल-12011/152/2006-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 20th September, 2007

S.O. 3044.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 30/2007) of the Central Government Industrial Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the Industrial Dispute between the management of Allahabad Bank and their workmen, which was received by the Central Government on 19-9-2007.

[No. L-12011/152/2006-IR (B-II)]
RAJINDER KUMAR, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT, LUCKNOW****PRESENT**

Shrikant Shukla, Presiding Officer

I.D. No. 30/2007

Ref. No. L-12011/152/2006-IR (B-II) dt. 6-7-2007

BETWEEN

The Asstt. General Secretary,
Allahabad Bank Staff Association,
40/26, A-North Malaka,
Allahabad-211 001.

AND

The Dy. General Manager,
Allahabad Bank,
Zonal Office, Meerut Cantt.,
Meerut (U.P.)

AWARD

The Government of India, Ministry of Labour, New Delhi referred the following dispute No.L-12011/152/2006-IR(B-II) dated 6-7-07 for adjudication to the Presiding Officer, CGIT-cum-Labour Court, Lucknow:

"Whether the action of the management of Allahabad Bank Meerut by not promoting Shri Mit Pal : 1/3 scale wages part time Sweeper, Extension Counter of the Bank of Sugar Cane Society, Modi Nagar to full scale wages sweeper at Modi Nagar main branch as per station/branch-wise seniority w.e.f. June 2001 is fair, and justified ? If not the workman is entitled to what relief?"

The copy of the reference order was endorsed to the trade union office bearers i.e. Genereal Secretary, Allahabad Bank Staff Association and Dy. General Manager, Allahabad Bank, Meerut. Though the reference order was received in this court in 23-7-07, but the trade union espousing the dispute did not file any statement of claim till 10-8-07, therefore this court ordered that the summons by registered be sent to the parties and accordingly the summons by registered post were sent on 13-8-07. Fixing 21-9-07 for filing statement of claim. On 30-8-07 a fax message received from Dy. General Manager, Allahabad Bank, Meerut informing this court that the matter has been settled on 20-4-07 and therefore management requested to fix 6-9-07 for hearing at Camp Court, Dehradun, therefore the case was taken up for hearing at Camp Court, Dehradun on 6-9-07. Worker Sri Mit Pal and the representative of the trade union Sri B. D. Tewari, Vice State President, Sr. Manager of the Bank Sri Amar Singh and Law Manager Sri Raj Kumar of the bank appeared.

Heard the parties present.

The parties stated that the worker has been promoted to the post of Full Scale Wage Sweeper at Modi Nagar main branch of the Allahabad Bank and there remains no dispute left for adjudication in this court.

In the interest of justice I have recorded the statement of Sri Mit Pal the worker and the Manager Law Sri Raj Kumar of Zonal Office, Allahabad Bank. The worker stated on oath in the court that amongst himself, trade union representative and the employer Dy. General Manager, Allahabad Bank , Sr. Manager Sri Amar Singh and Sri Raj Kumar, Law Manager of Allahabad Bank, compromise has taken place and he has been promoted on the full scale wages sweeper w.e.f.15-9-06 on the vacancy created on the death of full time sweeper Sri Ram Gopal who died on 14-9-06. He has also stated that there was no vacancy existing in respect of full scale wage sweeper in Modi Nagar main branch of the bank in June 2001. In the circumstances award is passed thus, "There was no vacancy at Modi Nagar main branch of Allahabad Bank in June 2001 and therefore no obligation was cast upon the management of the Allahabad Bank to promote Sri Mit Pal who was part-time sweeper at extension counter of the bank at Sugarcane Society, Modi Nagar and as soon as the vacancy was created on 14-9-06 as a result of death of full time scale wage sweeper Sri Ram Gopal at the main branch of the bank , Sri Mit Pal was promoted on 15-9-06 accordingly, statement of Sri Raj Kumar Manager Law will be the part of the award."

Lucknow,

10-9-2007 **SHRIKANT SHUKLA**, Presiding Officer

Raj Kumar, Manager Law, Zonal Office, Allahabad Bank, Meerut.

I take oath in the name of God and state as under :

- (1) That I am Manager Law, Allahabad Bank, Zonal Office, Meerut Cantt., Meerut.
- (2) I have appeared along with the Senior Manager (Admn.) Zonal Offcer Sri Amar Singh.
- (3) I and Sri Amar Singh have been directed by the Dy. General Manager, Allahabad Bank, Meerut Cantt. to appear before the Presiding Officer in the Competent Court, Dehradun.
- (4) I have heard the statement of workman Sri Mit Pal.
- (5) As soon as the vacancy came into existence in Modi Nagar branch of Allahabad Bank, part time sweeper Sri Mit Pal of Extension Counter of the Bank at Sugarcane Society, Modi Nagar has been promoted on 15-09-2006 as full-time sweeper as he is being paid wages accordingly.

It is pertinent to mention here that as a result of Sri Ram Gopal of FTS Modi Nagar Branch of Bank vacancy was created on 14-09-2006, on the next very day, the workman was appointed as FTS on regular basis. As such no dispute exists any more. Contents of the statement aforesaid are true to my personal knowledge.

Sd/-

K. RAJ KUMAR,
Manager—Law,
Zonal Office,
Allahabad Bank,
Meerut

Statement given on 6th before the P.O.

नई दिल्ली, 20 सितम्बर, 2007

का. आ. 3045.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन बैंक के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार, ओद्योगिक अधिकारण/श्रम न्यायालय, अर्नाकुलम के पंचाट (संदर्भ संख्या 145/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2007 को प्राप्त हुआ था।

[सं. एल-12012/21/2000-आई आर (बी-II)]
राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 20th September, 2007

S.O. 3045.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 145/2006 of the Central Government Industrial Tribunal-cum-Labour Court Ernakulam as shown in the Annexure, in the Industrial Dispute between the Management of Indian Bank and their workmen, which was received by the Central Government on 19-9-2007.

[No. L-12012/21/2000-IR (B-II)]
RAJINDER KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ERNAKULAM

PRESENT

Shri P. L. Norbert, B.A., LL.B., Presiding Officer

(Tuesday the 11th day of September, 2007/20th
Bhadrapada, 1929)

I.D. No. 145/2006

(I.D. No. 1/2000 of Industrial Tribunal, Kollam)

APPEARANCES

Workman	:	Smt. C. Kamala Devi Deepthy Mukkam Road Mayyanad P.O. Kollam
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Adv. Shri Pearson Fernandez

Management	:	The Zonal Manager Indian Bank Zonal Office Ernakulam
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Adv. Shri S. Easwaran

AWARD

This is a reference made by Central Government under Section 10 (1) (d) of Industrial Disputes Act, 1947 for adjudication. The reference was originally pending before Industrial Tribunal, Kollam. As per the order of the Hon'ble High Court it was transferred to this court for adjudication and disposal. The reference is :

“Whether Smt. C. Kamala Devi designated as Officer of Indian bank at Mayyanad Branch is a workman within the purview of I.D. Act, 1947?”

“And whether the punishment of removal from service to Smt. Kamala Devi under order dated 24-4-1992 is justified and if not to what relief she is entitled to?”

2. The facts of the case in brief are as follows :

Smt. C. Kamala Devi joined the service of Indian bank as clerk in 1972. She had been working in various branches from time to time on transfer and at last in Mayyanad Branch of Kollam District. While so, on the allegation of commission of certain serious irregularities, such as passing as well as aiding and abetting payment of fraudulent cheques, opening of fictitious accounts, misuse of surrendered cheques and tampering with books of accounts, a charge-sheet was issued to her and an enquiry was conducted and she was found guilty of all the charges numbering 7. The Disciplinary Authority imposed a punishment of removal from service by order dated 24-4-1992. According to the claimant the charges are vague, the Enquiry Officer violated the principles of natural justice, she was not given sufficient opportunity to defend, the Enquiry Officer adopted a partisan attitude and the punishment imposed by the Disciplinary Authority is harsh and excessive.

3. According to the management the claimant is not a workman within the definition of S-2(s) of I. D. Act and hence the reference is not maintainable. There is no violation of the principles of natural justice or procedure

for enquiry. The claimant was represented by a defence representative throughout the enquiry. The claimant was also present throughout the enquiry. All the management witnesses were cross-examined by the defence. At the end of evidence of the management the claimant was asked, whether she had any witness or document and the defence representative said in the negative. The charges are very clear and there is no reason for any misunderstanding. The Enquiry Officer had asked the claimant whether she had read and understood the charges and she said in the positive. The Enquiry Officer came to the conclusion that the claimant is guilty of the charges on the basis of the materials on record. There is no reason to interfere with the findings. The punishment awarded is proportionate to the charges.

4. In the light of the above contentions the following points arise for consideration :

- (1) Is the reference maintainable ?
- (2) Are the findings sustainable ?
- (3) Is the punishment proportionate ?

The evidence consists of the oral testimony of WW1 on the side of workman and MW1 and 2 and Exts. M1 to M8 on the side of management.

5. Point No. (1) :

It is an admitted fact that the claimant, Smt. C. Kamala Devi joined the service of Indian Bank as clerk in 1972. At the time of removal she was designated as officer (Mayyanad Branch). But according to the claimant though she was designated as officer she was not doing any work of an officer, but of a clerk. It has been the precedent of the bank to designate senior clerks as officers without any managerial, administrative or executive duties. On the other hand, according to the management, though she joined as a clerk she was promoted as officer and she was governed by Indian Bank Officer Employees (Conduct) Regulations and Indian Bank Officer Employees (Discipline and Appeal) Regulations, 1985 and her principal work was that of an officer. Even if she had done some clerical work it was only incidental to the main work. She was drawing a salary exceeding Rs. 1600 per month. Hence she is not a 'workman' within the definition of S-2(s) of I. D. Act.

6. The mere designation of a person as Manager or Administrator of an industry will not make him an officer. The predominant function of an employee is the determinative factor to know the nature of employment, as a workman or an officer. If the duties that is assigned is substantially of managerial, administrative, executive or supervisory nature then the employee ceases to be a 'workman' and becomes an officer and is governed by Rules and Regulations relating to officers. It is held in

Ananda Bazar Patrika *V* Its Workman (1969 2 LLJ 670-72 (SC), Bermah Shell Oil Storage and Distributing Co. of India Ltd. *V* Bermah Shell Management Staff Association 1970-II-L.L.J. 590 (SC), S. K. Maini *V* M/s. Carona Sahu Company Ltd. and Ors. (1994), 3 SCC 510 and Mar Baselius Medical Mission Hospital *V* Joseph Babu 2007(1) KLT 783 that an employee who is neither employed in managerial capacity nor is required substantially to discharge administrative or supervisory duties would not necessarily be a workman. Even if an officer does some clerical duties which are purely incidental to his main work of a multifarious nature such ancillary duties would not make him a workman. The functions one performs is the decisive factor and not his designation. What is required to be considered is the principal nature of duties and functions.

7. Coming to the case on hand, in the charge-sheet the claimant is addressed as officer. In the reply to the charges she has not taken up a contention that she is not an officer, probably because it was not the appropriate stage of raising a dispute regarding her status. In Ext. M4 Enquiry Report the Enquiry Officer has repeatedly described her as charge-sheeted officer, and not charge-sheeted employee. Ext. M1 Power of Attorney executed by bank to the claimant is a clinching piece of evidence of having recognized the claimant as an officer of the bank. Various clauses in Ext. M1 Power of Attorney and especially Clauses 3 and 5 to 8 show that she was designated as officer and she was assigned the work of an executive. Along with her another officer too was there and in certain matters she has to act jointly with him. Bank does not execute a Power of Attorney in favour of a clerk or any other employee below an officer with supervisory and managerial responsibilities. Ext. M7 is Chapter V of the Manual of Instructions, which relates to functions of officers. The opening clause 1.1 is itself indicative of the fact that the functions of officers are supervisory in nature. Clauses 1.2, 1.3, 6, 7, 9 and 11 are more illustrative of the supervisory nature of work. Suffice to quote Clause 7 to bring home the point —

"7. The officer-in-charge of the section will have the immediate and primary responsibility of getting the job done pertaining to his section effectively. In other words, he will be fully responsible for the administration of staff in his section. While the officer should provide necessary guidance to the staff under his control, he should not hesitate to record the mistakes committed by the staff in the Audit Book if the staff concerned does not improve his performance despite the best efforts of officer."

8. MW1 the claimant admits in the chief examination that she was designated as officer while in Mayyanad Branch. However, according to her, she was doing only clerical work and not supervisory or managerial or executive

work. But she does not describe the nature of the work that was being done by her either in her deposition or in her

pleadings. The deposition in her chief examination at page 3 of the proof affidavit is clinching the issue:

“ පොනගතියේ සාම්ඛ්‍ය යෙකා (අවබුදු තුළ මෙය යෙකා) නිස් මෙය මෙය යෙකා
මිශ්‍රයෙහි පොනගති යෙකා නිස් මෙය යෙකා පොනගති නිස් මෙය යෙකා.
සෑම මෙය යෙකා නිස් මෙය යෙකා නිස් මෙය යෙකා නිස් මෙය යෙකා
පොනගතියේ පොනගතියේ නිස් මෙය යෙකා නිස් මෙය යෙකා
පොනගතියේ නිස් මෙය යෙකා නිස් මෙය යෙකා නිස් මෙය යෙකා
ආකෘතියෙහි පොනගතියේ නිස් මෙය යෙකා නිස් මෙය යෙකා
උරුමකින් මුදලන් පොනගතියේ නිස් මෙය යෙකා
පොනගතියේ නිස් මෙය යෙකා නිස් මෙය යෙකා නිස් මෙය යෙකා
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පොනගතියේ නිස් මෙය යෙකා නිස් මෙය යෙකා නිස් මෙය යෙකා
පොනගතියේ නිස් මෙය යෙකා නිස් මෙය යෙකා නිස් මෙය යෙකා
පොනගතියේ නිස් මෙය යෙකා නිස් මෙය යෙකා නිස් මෙය යෙකා

In the cross-examination at page 2 she admits that she was an officer at Mayyanad Branch. At page 3 she says that the cheques and vouchers verified and initialed by staff when brought to her would be passed by her. But, according to her, the cheque that she could pass was of a limited amount of Rs. 500 only. But the suggestion in the cross-examination was that all cheques were to be passed by her. Again at page 5 she says that she used to sign the cheques without verifying the ledger. In the evening she would verify the ledger. Again she says that the ledger would be verified both by Manager and herself. At page 7, regarding different alleged withdrawals, she said that the disputed cheques were passed by the clerk and ultimately brought to her and finally they were passed and initialed by her. The power to pass cheques authoritatively rests with an officer and not with a clerk. That itself is indicative of the fact that the claimant was not a clerk, but an officer.

9. MW2 is the then Branch Manager of Mayyanand Branch. According to him the claimant was in charge of

Savings Bank and Current Account Department and the principal work of the claimant was supervisory in nature. Thus the evidence go to show that the claimant was an officer in letter and spirit and not merely by designation.

10. In the light of the evidence and circumstances referred above it can be said with certainty that the claimant was not only designated as an officer but she was also required to do the work of an officer, viz., supervisory and administrative work. Therefore the claimant is not a 'workman' within the definition of S-2(s) of I.D. Act. It follows therefore that this court has no jurisdiction to entertain and adjudicate the dispute.

11. However it is relevant to note that though a petition was filed by the management on 10-10-2002 before Industrial Tribunal, Kollam to decide the issue of maintainability as a preliminary issue the petition was ordered to be heard along with the main case. It was so done probably because full-fledged evidence was required to decide the question of maintainability. Since evidence

on merits was adduced by the parties, for the purpose of completeness I would also refer to the other points in the dispute.

12. Point No. (2):

There are innumerable charges against the claimant and they were brought under 7 main heads of charges. It is regarding fraudulent withdrawal of amounts from the accounts of different customers and misappropriation and tampering with records of the bank. It is alleged that utilizing unused and surrendered cheque leaves of customers, the amounts were withdrawn by the claimant. The charges are proved through the testimony of MWs 1 to 4 who identified the hand-writing and initials of the claimant in S/B ledger folios, vouchers, cheques and other records of the bank. The documents relied on by the Enquiry Officer in support of the charges are Ext. MEX 3A to 31B. The Enquiry Officer has elaborately dealt with oral and documentary evidence which clinches the charges. The learned counsel appearing for the claimant was not able to point out any lacuna in the evidence or lack of evidence to assail the charges. The allegations are mainly supported by documentary evidence which are ledger folios, vouchers, cheques and specimen signature cards. There is also admission by the claimant that cheques were ultimately initialled and passed by her for withdrawal. Thus the findings of the Enquiry Officer is laid on rocky foundation and the claimant has not been able to shake its stability.

13. Though the claimant has a contention that Enquiry Officer did not follow the procedure for enquiry and violated the principles of natural justice, it lacks merits. The claimant was represented by a defence representative (Joint Secretary of the Association). The claimant was present throughout the enquiry. All the management witnesses were cross-examined (See Ext. M3 series). The last sitting of the enquiry was on 24-6-1991. After closing the evidence of the management the Enquiry Officer had called upon the claimant to adduce defence evidence. But the claimant did not want to lead evidence (See Ext. M3 series). Thus the claimant was given ample opportunity to defend the charges. The claimant has yet another contention that the charges are vague and she was not able to understand the charges properly. This is also a careless allegation. The charge-sheet consists of 5 pages. Each and every incident of misconduct is clearly detailed in the charge-sheet. Before the evidence started the Enquiry Officer had asked the claimant whether she had read and understood the charges and she had answered in the positive. When the Enquiry Officer was examined (MW1) nothing was brought out to show that he was not impartial and was inclined to the management. Thus none of the grounds urged by the claimant to challenge the validity of enquiry are sustainable.

For the reasons stated above I hold that the evidence is properly assessed and findings are correctly drawn by

the Enquiry Officer and no interference is warranted in the circumstances.

14. Point No. (3):

The punishment awarded by the Disciplinary Authority is removal from service. It is unnecessary to say that for serious charges of the nature, no lesser punishment would be proportionate. She was involved in several fraudulent cheque transactions and misappropriation of money of customers. No employer can be expected to repose confidence and retain an employee of this character. Her conduct has brought bad reputation to the bank and caused monetary loss. She thus acted prejudicial to the interest of the bank. Hence I find that the punishment is in no way disproportionate to the charges and I refrain from interfering with it.

15. In the result, an award is passed finding that Smt. C. Kamala Devi was an officer of the bank at the relevant time and not a 'workman' within the definition of S-2 (s) of I.D. Act and therefore the reference is not maintainable before this Court. The award will take effect one month after its publication in the Official Gazette.

(Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 11th day of September, 2007.)

P. L. NORBERT, Presiding Officer

APPENDIX

Witness for the Worker :

WW1 — Smt. C. Kamala Devi—5-12-2002

Witness for the Management :

MW1 — Shri S. M. Meerasa

MW2 — Shri V. Jayaprakash—10-6-2004

Exhibits for the Worker :

Nil.

Exhibits for the Management :

M1 — Photostat copy of forwarding letter No. PRNL : POA : 6778 RM dated 15-3-1984 issued by Dy. General Manager, Indian Bank and Power of Attorney.

M2 — Photostat copy of circular No. PRNL 99/96-97 dated 18-1-1997.

M3 series — Proceedings of the enquiry (2 volumes).

M4 — Findings of the Enquiry Officer dated 12-12-1991.

M5 series — Remaining part of the enquiry file (6 volumes).

- M6 — Photostat copy of Chapter II of Manual of Instructions regarding functions of Manager.
- M7 — Photostat copy of Chapter V of Manual of Instructions regarding functions of Officer.
- M8 — Photostat copy of Chapter IV of Manual of Instructions regarding functions of Accountant.

नई दिल्ली, 20 सितम्बर, 2007

का. आ. 3046.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार केनरा बैंक के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/प्रम न्यायालय नं.-2, चंडीगढ़ के पंचाट (संदर्भ संख्या 800/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2007 को प्राप्त हुआ था।

[सं. एल-12012/142/1990-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 20th September, 2007

S.O. 3046.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Reference No. 800/2005) of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Chandigarh as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 19-9-2007.

[No. L-12012/142/1990-IR (B-II)]
RAJINDER KUMAR, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Shri Kuldip Singh, Presiding Officer

Case I.D. No. : 800/2005
Registered on : 6-9-2005
Date of Decision ; 4-7-2007

Ramesh Parshad
S/o Shri Murlidhar,
C/o Shri Tek Chand Sharma,
25, Sant Nagar,
Civil Lines,
Ludhiana

Petitioner

Versus

The Management Canara Bank,
Staff Section (W)
Circle Office,
Chandigarh

Respondent

APPEARANCE

For the Workman : Sh. J. S. Shahpuri,
Advocate

For the Management : Sh. Kapil Dev Aggarwal,
Advocate

AWARD

This is a reference made by the Government of India, Ministry of Labour, vide their order No. L-12012/142/90-IR (B-II) dated 7th August, 1990. It reads as under :

“Whether the action of the Canara Bank in terminating the services of Shri Ramesh Parshad, Peon at their Jalandhar City Branch w.e.f. 13-3-1989, is legal and justified ? If not, to what relief the concerned workman is entitled and from what date ?”

On the receipt of the reference, notices were issued to the parties directing them to state their part of the case in relation to the reference. The workman filed the Claim Statement and the Management their Written Statement. The workman also filed the rejoinder and his affidavit whereas the Management filed the affidavit of Shri P. K. Mahajan, their witness. The parties also placed on record photocopies of the documents and also produced oral evidence. The workman appeared as a witness whereas the Management examined Shri P. K. Mahajan, as their witness.

The Government of India has desired to know whether the action of the Management in terminating the services of Shri Ramesh Parshad, Peon w.e.f. 13th March, 1989 was legal and justified. If not to what relief the workman was entitled to. The workman, opposing the reference, claimed that his services were illegally terminated by the Management on 12th April, 1989, against which he had raised the demand which has culminated in the present reference. Giving the detail of working days during which he served the Management he stated that he had worked for the Management from 1st May, 1986 to 12th April, 1989, including on Sundays and Holidays, in total for 900 days. The work for which he was engaged was continuous and of permanent nature and is available even after the termination of his services. However, the Management did not confirm him in accordance with para 21.17 of the Desai Awards, although he had put in more than 6 months service. The Management also did not follow para 522 of the Shastri Award. They terminated his services without notice, charge sheet, notice pay nor they paid him retrenchment compensation. They also did not maintain his service record and thus violated the mandatory provisions of the Desai

Award, Shastri Award and Bipartite Settlements. They retained the juniors of the workman in service but terminated his services. They also engaged fresh hands without providing opportunity to the workman to serve. The termination of the services of the workman therefore, was in violation of provisions of Section 25-F, G & H of the I.D Act, 1947, in short "Act". He has further claimed that after the termination of his services he has remained unemployed as he could not get any other job.

The Management has opposed the claim of the workman. Their case is that since no vacancy was available with the Management therefore, the workman had no right for regularization. For want of vacancy he could be absorbed as is held by the Hon'ble Supreme Court. It is further stated by them that so as to carry on the working of the Bank, in the absence of regular staff proceeding on leave, districtwise panel were prepared to substitute the regular staff and the workmen so impanelled were called for work, according to their seniority, however, since such a staff was engaged purely on temporary basis, they were not governed by Shastri, Desai Awards and the Bipartite Settlement, therefore, no relationship of employee and employer was created between them. So the provisions of the Act were not applicable to them. On merits it is their submission that the workman was engaged as a Coolie on daily wages for doing manual work and was supposed to remain in touch with the Branch Manager at Jalandhar for the availability of work. His services were used to be engaged for 10 ½ days in a month. There was no question of termination of his services as his engagement used to be on daily basis and the same came to an end after the expiry of the purpose for which he was engaged. According to them, in the year 1984, a fire incident took place in the Management Bank in which the record and articles of the Management were destroyed. The workman was engaged to help in the reconstruction of the record and for doing other manual work. It is also stated by them that since the workman used to be engaged for specific work and he got automatically relieved after the completion of that work, therefore, there was no occasion for retrenchment of the workman and since the workman was not engaged by the Bank on regular basis, therefore, there was no question of holding an inquiry or providing an opportunity to the workman to defend himself. He could also not claim the compensation for termination for want of work. The workman was never the employee of the Management therefore, there was no question of maintaining his service record. Denying that his juniors were retained in service they also contested that the Management had engaged fresh hands saying no fresh hands were engaged by them. The workman was paid the wages for the work he did for the Management.

In his rejoinder, the workman recounted the facts stated in the Claim Statement he did not add anything new except saying that the reply given by the Management is

incorrect and false. They claimed that he had worked for the Management from 1st May, 1986 to 12th April, 1989, the fact which was admitted by the Branch Manager and the Divisional Manager under their hands saying that he was engaged for cash stitching and for doing other jobs and this fact can be verified from the different vouchers, finding of records split bundles signed by him. The workman has further claimed that he did perform duty even on a day when whole of the staff went on strike. He claimed that there were three posts of sub staff in the Jullundhar Branch. Denying that he had served the Management for 10—12 days in a month he stated that he was paid bonus for the years 1986-87 and 1987-88. He stated that the facts stated by the Management is wrong, incorrect, therefore, the same may be rejected.

The workman appeared as a witness who was cross examined by the Management's Counsel. The Management produced P. K. Mahajan as their witness who in his cross examination admitted that the workman had served the Management upto 12th April, 1989; and that he had served the Management for 290 days in the year 1988. He further admitted that no order of terminating the services of the workman was passed nor he was given any notice or notice pay before disengaging him. Giving the details of the working days from May, 1988 to Dec., 1988 he stated that the workman was not paid any retrenchment compensation. The workman, on his part, denied that he has worked with the Management as a Coolie and not as a Peon.

The Management, as per the statement of their witness P. K. Mahajan, admitted that the services of the workman were terminated and that the workman had served the Management from May, 1986 to 12th April, 1989. He was categorical to admit that the workman had served the Management for 290 days in the year 1988. In reply to the claim of the workman made in para 3 of his Claim Statement, the Management refused to admit the facts stated therein. However, they did not give facts so as to rebut the claim of the workman. The workman in the said para during the period in which he had served the Management for a specific days and the Management has failed to show that the claim of the workman was wrong. The Management admitted that the workman had served them during the period claimed by him. If that was so, as it is, the Management must be in possession of the record to show that as to for how many days, during the period in question, the workman had served the Management. They could produce the vouchers to show that how much wages were given to the workman and for what period. They could also produce the attendance register to show that he was present and worked for them on such and such day which could rebut the claim of the workman. Mere denial is an evasive reply and is presumed to be an admission. There is no dispute that the services of the workman were disengaged in April, 1989. If we count 12 months preceding

12th April, 1989, as per workman he had served the Management for 285 days 12 months preceding the date of his engagement from the services of the Management. Shri P. K. Mahajan admitted that the workman had served for 290 days in the year 1988 which means that he remained in the service of the Management from May, 1988 to 12th April, 1989 and the period for which the workman is proved to have served comes to 285 days. Thus it is proved that the workman had served the Management for 240 days 12 months preceding the date of his termination on 12th April, 1989.

The witness of the Management, admitted that before the disengagement of the workman he was not given any notice of termination giving him the reasons for his termination. He was also not paid wages for the notice period. It is further admitted that neither any charge sheet was served upon him nor any inquiry was held against him. Therefore, it is clear that although the workman had served the Management for 1 year as defined by Section 25-B of the Act, but the Management did not follow the provisions of Section 25-F of the Act. This conclusion is supported by the letters of the officers of the Management, photocopies of which are placed on record and marked as A and B. These letters rather contradict the stand of the Management that the workman was engaged as a Coolie only for specific work. These letters rather show that the workman did not work only as a Coolie but also he served the Management for salvaging the record effected in fire incident. He also helped in the working of the Bank, as and when their sub staff was not available or overburdened. The Management has not produced any evidence to rebut the claim of the workman that he had not performed the duty as a Cash Stitcher and doing other jobs. After going through the evidence available on record I am of the opinion that the workman had served the Management for more than 240 days when his services were terminated by the Management without following the provisions of Section 25-F of the Act. The disengagement of the workman was, therefore, not legal and justified and the same is quashed. The workman is treated to be in the service of the Management as if there was no order of his disengagement.

Now the question comes as to what relief the workman is entitled to. The workman in his Claim Statement stated that he is unemployed as he did not get any service after his disengagement. The same thing he claimed in his affidavit which was proved by him by his statement recorded in the Court. The Management, both by failing to produce evidence in rebuttal in this regard and by putting questions in cross examination to the workman. There is, therefore, no evidence on record to show that the workman remained gainfully engaged after his disengagement by the Management. But it cannot be denied that he has survived all these years. There is no evidence to show that for want of income he or his family has suffered. The presumption is that he did earn so as to feed his family, but

may not be so comfortably as he would have by remaining in service of the Management. The interest of the justice demands that he should be paid back wages as he would have suffered. I, therefore, hold that the workman is entitled to back wages to the tune of 50% of what he would be to the disengagement of the workman. The award is passed in his favour and the Management is directed to comply with the award within three months failing which the workman shall also be entitled to interest on the amount of back wages found due to him at the rate of 9% p.a. Let a copy of this award be sent to the appropriate Government for necessary action and the file be consigned to records after due completion.

KULDIP SINGH, Presiding Officer

नई दिल्ली, 20 सितम्बर, 2007

का. आ. 3047.—ओद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कोचीन पोर्ट ट्रस्ट के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट ओद्योगिक विवाद में केन्द्रीय सरकार, ओद्योगिक अधिकरण/श्रम न्यायालय, अर्नाकुलम के पंचाट (संदर्भ संख्या 19/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2007 को प्राप्त हुआ था।

[सं. एल-35011/3/2003-आई. आर. (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 20th September, 2007

S.O. 3047.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.19/2006) of the Central Government Industrial Tribunal-cum-Labour Court, Ernakulam as shown in the Annexure, in the Industrial Dispute between the management of Cochin Port Trust, and their workmen, which was received by the Central Government on 19-09-2007.

[No. L-35011/3/2003-IR(B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,

ERNAKULAM

PRESENT

Shri P.L. Norbert, B.A., LL.B.,
Presiding Officer

Wednesday the 12th day of September, 2007

I.D. 19/2006

(I.D. 37/2003 of Labour Court, Ernakulam).

Workman/Union : The General Secretary,
Cochin Port Employees Sangh,
Old Central School Building,
Kochi-682 009.

... Adv. Shri S. Manu

Management : The Chairman
 Cochin Port Trust
 Wellington Island
 Kochi-682 003
 ... Adv. M/s. Menon & Pai

AWARD

This is a reference made by Central Government under Section 10(1)(d) of Industrial Disputes Act, 1947 for adjudication. The reference is :

"Whether the deduction of 22 days salary between 8-8-2001 to 16-9-2001 of Sh. M.K. Asokan, Serang of H.M. Division by the management of Cochin Port Trust is fair, proper and justified. If not, what relief the workman is entitled to?"

2. The facts of the case in brief are as follows :—

Shri M.K. Asokan, the workman in this case, joined the service of Cochin Port Trust on 23-2-1984 as Lascar. He got promotion later as Lascar Grade I and then as Serang. According to the union, the management had asked the workman to perform the duties of Lascar during the period 8-8-2001 to 16-9-2001 for 22 days. The post of Lascar being two stages below that of Serang the workman was not bound to do the duties of Lascar and so he refused to perform the duties of Lascar. The management deducted his salary for 22 days during August and September, 2001. This according to the union, is illegal and an unfair labour practice. Hence the dispute was raised.

3. According to the management at the time of promotion every worker makes an undertaking that he would, if required, perform the duties of lower posts. When there was shortage of Lascars the workman was asked to do the duties of Lascar during August and September, 2001. But he refused to obey the direction and perform the duties. Thus he did not work and earn for the days he refused to perform the duties of Lascar. Since he did not work and earn for the days he refused to perform the duties of Lascar. Since he did not work and earn he was not entitled to draw wages for those days. However no deduction was made from the salary of August and September, 2001. The reference itself is bad.

4. In the light of the above pleadings the only point that arises for consideration is :

"Whether management had deducted salary for 22 days during 8-8-2001 to 16-9-2001 and if so, is it legal?"

The evidence consists of the oral testimony of WW1 and documentary evidence of Exts. W1 to 6 on the side of workman and MW1 and Exts. M1 series on the side of management.

5. The Point :

The following facts are admitted :—

Shri M.K. Asokan joined the service of Port Trust as Lascar on 23-2-1984. He was promoted as Lascar Grade I. Due to the death of Serang Abdul Sattar a vacancy of Serang arose on 25-5-2000 and Shri M.K. Asokan was promoted and posted as Serang.

6. Ext. W1 is the order of promotion of 4 employees including the workman. In the foot of the order there is an endorsement asking the employees to make an undertaking to the effect that they will continue to discharge the duties which were performed by them before their promotion. Accordingly the workers made an undertaking. Though the management has produced undertaking of two employees, they are not marked. However it is relevant to refer to the undertaking. Shri T.N. Premalal, Serang undertook to perform the duties and responsibilities of Lascar Gr. I and Shri V.F. Joseph, Lascar Gr. I undertook to perform the duties and responsibilities of Lascar. It is thus relevant to note that the undertaking is that they would perform the duties that they were doing prior to their promotion, i.e. to perform the duties attached to their previous post. In other words it means that Serang would perform, in case of exigency the duties of Lascar Gr. I and Lascar Gr. I would perform the duties of Lascar. Ext. W2 dated 6-8-2001 is the direction of Harbour Master asking 7 of the Serangs to perform the duties of Lascar. The worker is one among them. This was done on the basis that the Serangs had undertaken to perform the duties of Lascars at the time of promotion. But according to the union the post of Serang is two stages above that of Lascar and for becoming a Serang one has to pass Serang's test and the feeder category of Serang is Lascar Gr. I and not Lascar. It is also contended that there is scale difference in the above 3 posts. The management does not dispute that there is scale difference. But they don't agree that there is any difference in work. According to the union Serangs are posted in High Capacity Vessels and Lascars in Mooring Boats. The workman in this case was examined as WW1. He says that Lascar is Class IV while Lascar Gr. I and Serang are Class III. The management witness, a general foreman (Marine) of Cochin Port Trust was examined as MW1. He says that Lascar is Class IV and Serang is Class III. But he does not know to which class Lascar Gr. I belongs. He is one of the foremen who had required the claimant and others to do the work of Lascar and on refusal sent reports Ext. M1 (f), (i), (m) and (p) to Harbour Master regarding refusal to work. Yet he does not know to which class Lascar Gr. I belongs. By Ext. W2 order the Serangs including the workman were asked to perform the duties of Lascar only because of the undertaking made by them at the time of their promotion. However, as already mentioned, there is no such undertaking by Serangs that they would perform the duties of Lascar. But they undertook to do the duties of Lascar Gr. I. The duties of Lascar and Serang are

not the same. They are working in two kinds of Vessels, viz. High Capacity Vessels and Mooring Boats. Their scales as well as classes differ. Therefore when the workman refused to perform the duties of Lascar there was no violation of any regulation or undertaking. If the management wanted manpower to make up the shortage of Lascars then they could very well ask Lascar Gr. I to work as Lascars in view of their undertaking. It is not one or two days that the workman was asked to do the duties of Lascar, but on 22 days continuously.

7. It is relevant to note that by Ext. W3 dated 22-10-2001 the Deputy Chairman had addressed the Deputy Conservator of Cochin Port Trust on the basis of complaints of unions that the undertaking is misinterpreted to victimize Serangs, that it is improper to ask the Serangs to do the duties of Lascars as the categories are different and they have different pay scales. Therefore Serangs should be posted to High Capacity Vessels to the maximum extent possible without any increase in overtime. The Deputy Conservator forwarded this instruction of Deputy Chairman to Harbour Master for strict compliance. However the management on the basis of the wording in Ext. W3 "to the extent possible" contend that there is a practice of posting even Serangs to perform the duties of Lascars in Cochin Port Trust. Therefore there is nothing wrong in asking the workman to do the duties of Lascar. It is to be remembered that the entire instruction Ext. W3 has to be read together. It is clearly mentioned in the instruction of Deputy Chairman in the main paragraph that the undertaking by Serangs is to perform the duties of the post they were occupying just before their promotion. The words "to the extent possible" is only a refined way of writing and it does not carry the meaning that the management wants to convey. Having said that it is improper to post Serangs as Lascars the Dy. Chairman would not have directed that Serangs could be utilized for the work of Lascar in case of exigency. Assuming for the sake of argument that in extreme emergency Serangs could be asked to work as Lascars the so-called implied permission in Ext. W3 is misused as a routine working arrangement. Hence the workman was asked to do Lascar's job continuously for 22 days. This action of the management cannot be justified. If there is any practice in the Cochin Port Trust as contended by the management it has to be pleaded and proved and not enough to cling on to a wording in the instruction of Deputy Chairman of Port Trust in Ext. W3.

8. It is to be noted that it is not only the worker, but even other Serangs have refused to perform the duties of Lascar. Ext. M1 series reports M1 to M1(r) show that several Serangs had refused to work as Lascars. But no action was taken against them. The explanation of MW1 is that though the other Serangs had refused to work as Lascars initially later they obeyed the order and performed the duties of Lascars. But there is no record to show that. It is only the interested testimony of MW1. However Ext. M1 series

reports show otherwise. Whatever that be, so far as the workman is concerned, he was not bound by the direction in Ext. W2 asking him to perform the duties of Lascar. The management on the basis that he had refused to work cancelled his attendance for the period from 8-8-2001 to 16-9-2001 (22 days). This is highly improper. Having attended to his duty as Serang and signed the Attendance Register, it was not proper for the management to cancel the attendance. The salary for 22 days was deducted out of the salary of July 2002. Hence the management submit that there was no deduction out of the salary of the months, August and September, 2001. There is no meaning in their submission. They have no case that in July 2002 the workman was absent or he had refused to work. The salary was deducted on the basis that there was excess payment for 22 days. It is to be noted that what was done in July 2002 is not deduction, but only recovery. The deduction was made in respect of the period from 8-8-2001 to 16-9-2001. Since the action was belated the recovery could be effected only in July, 2002 as detailed in Ext. W6. The details of recovery in Ext. W6 show that for absence for 7 days in August 2001, 5 days in September 2001 and 7 days in October, 2001 the deduction was made. Thus, Ext. W6 clinches the issue that what was done by the management is nothing but deduction and recovery was made only in July 2002. The argument of the management, that no deduction out of salary of August and September, 2001 was made, is therefore fallacious.

9. The contention of the management that no notice was required before deduction of salary is also not sound. The workman was on duty during the disputed period and he had attended the office. He refused to work only as Lascar and not as Serang. Therefore there was no justification in withholding his salary for 22 days or recovering salary for the said period on a subsequent date. Equally so, there is no justification for cancelling the attendance of the workman for 22 days. The learned counsel for the management relied on the following decisions to support his contention that the management is entitled to deduct salary of a worker without notice, when he does not work and earn.

In Bank of India v. T.S. Kelawala & Ors. 1990-II L.L.J. 39 and Syndicate Bank & Anr. V.K. Umesh Nayak etc. 1994 II-L.L.J. 836, it is held that when the employees go on strike and no work is done they are not entitled for pay, if the strike is illegal and unjustified. The management is entitled to deduct wages for the period of strike without notice to the workers.

10. It is to be noted that the cases referred by the learned counsel arise out of an altogether different situation. The Hon'ble Supreme Court was dealing with a case in which there was strike by the workers. There was no need in such a situation to give notice to the workers, who decided to strike work, before deducting salary for the days of strike. So far as the instant case is concerned, there

is no strike or refusal to work in the post to which the workman belonged. When he was asked to do what he was not bound to do, he refused to comply with the direction. There is no violation of any rule or regulation or undertaking. There is no illegality or insubordination in the conduct of the workman. Hence there is no justification in deducting his salary. If the management was aggrieved by the conduct of the workman and if they felt that it was an act of disobedience the remedy was to take disciplinary action and impose penalty according to law. But the management was not justified in deducting salary even without notice to the workman. The action of the management is clearly illegal, improper and unjustified. The amount recovered is to be reimbursed.

11. In the result, an award is passed finding that the action of the management in deducting salary for 22 days from 8-8-2001 to 16-9-2001 of Shri M.K. Asokan, Serang is illegal, improper and unjustified and the workman is entitled for reimbursement of the amount. The parties will suffer their respective costs. The award will take effect one month after its publication in the official Gazette.

(Dictated to the Personal Assistant, transcribed and typed by her, corrected and passed by me on this the 12th day of September, 2007.)

P.L. NORBERT, Presiding Officer

APPENDIX

Witness for the Workman/Union :

WW1 Shri M.K. Asokan—13-8-2007.

Witness for the Management :

MW1 Shri G. Viswambharan—17-7-2007.

Exhibits for the Workman/Union :

- W1 Photostat copy of order No. B1/Postings/2000 D dated 1-7-2000 of Cochin Port Trust.
- W2 Photostat copy of Order No. B1/Postings/LRC/2000/HM of Harbour Master, Cochin Port Trust, dated 6-8-2001.
- W3 Photostat copy of Note No. DCM/5/200/S dated 22-10-2001 issued by Dy. Chairman, Cochin Port Trust to Dy. Conservator, Cochin Port Trust.
- W4 Photostat copy of minutes of the meeting held on 10-8-2001 by Dy. Conservator, Cochin Port Trust with the unions reg. crew postings.
- W5 Photostat copy of representation dated 24-9-2002 submitted by the Union to ALC(C).
- W6 Photostat copy of letter dated 28-3-2007 issued by management showing details of deduction of salary to the workman.

Exhibits for the Management :

M1 Series—Reports addressed to the Deputy Conservator, Cochin Port Trust.

नई दिल्ली, 20 सितम्बर, 2007

का. आ. 3048.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ बड़ोदा के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय, जोधपुर के पंचाट (संदर्भ संख्या 18/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19-9-2007 को प्राप्त हुआ था।

[सं. एल-12011/173/2001-आई आर (बी-II)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 20th September, 2007

S.O. 3048.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 18/2002) of the Industrial Tribunal, Jodhpur as shown in the Annexure, in the Industrial Dispute between the management of Bank of Baroda and their workmen, which was received by the Central Government on 19-09-2007.

[No. L-12011/173/2001-JR(B-II)]

RAJINDER KUMAR, Desk Officer

अनुबन्ध

औद्योगिक विवाद अधिकरण एवं श्रम न्यायालय, जोधपुर

पीठासीन अधिकारी : श्री पुष्पेन्द्रसिंह हाड़ा, आर. एच. जे. एस.

औद्योगिक विवाद (केन्द्रीय) संख्या : 18/2002

श्री नरेन्द्र कुमार मीणा भार्फत

दी प्रेसीडेन्ट, बैंक ऑफ बड़ोदा स्टाफ यूनियन

राजस्थान द्वारा बैंक ऑफ बड़ोदा

सोजती गेट ब्राँच, जोधपुर

...प्रार्थी

बनाम

दी रीजनल मैनेजर,

बैंक ऑफ बड़ोदा, रीजनल ऑफिस, जोधपुर

...प्रार्थी

रेफरेन्स अन्तर्गत धारा 10 औ. वि. अधिनियम, 1947

उपस्थिति :

(1) श्री विजय मेहता, प्रतिनिधि प्रार्थी

(2) श्री जे. के. चाण्डा, प्रतिनिधि अप्रार्थी

अवार्ड

दिनांक : 11-1-2007

1. भारत सरकार ने अपनी अधिसूचना क्रमांक एल. 12011/173/2001/आई. आर. (बी-II) दिनांक 11-3-2002 द्वारा निम्न विवाद अन्तर्गत धारा 10 औद्योगिक विवाद अधिनियम, 1947 के तहत इस न्यायालय को रेफर किया है :

“Whether the action of Regional Manager, Bank of Baroda (Jodhpur Region), Regional Office, Jodhpur

in illegally changing the service conditions of Shri Narendra Kumar Meena full-time employee and giving him half pay instead of full pay w.e.f. 28-6-2000 is legal and justified? If not, what relief the concerned workman is entitled to?"

2. प्रार्थी यूनियन ने अपना मांग-पत्र इस आशय का प्रस्तुत किया है कि चयनित किये जाने के पश्चात् श्री नरेन्द्र कुमार मीणा प्रार्थी की नियुक्ति अनुसूचित जन-जाति के लिए आरक्षित अंशकालीन सफाई कर्मचारी 1/3 वेतन पर दिनांक 13-8-1992 के आदेश से की गई, प्रार्थी ने 29-8-92 को कार्यभार ग्रहण किया, छ: बाह की सेवा पूरी होने पर श्रमिक को 29-2-1993 को प्रोविडेन्ट फण्ड का उपलब्ध बनाया गया, प्रार्थी ने 29-8-92 से 30-10-97 तक विपक्षी बैंक की सोजती गेट शाखा, जोधपुर शाखा में कार्य किया, इस अवधि में प्रार्थी को वेतन शृंखला 815-1510 में दिनांक 10-4-1989 के पांचवें द्विपक्षीय समझौते के अनुसार वेतन का भुगतान किया गया, उक्त अवधि में श्रमिक से कैश पीओन, विभाग के नोटों को गिन कर जमा कर, सीने व दफतरी के पद का काम लिया गया व 119 रुपये प्रतिमाह अतिरिक्त भत्ता भी दिया गया। श्रमिक का स्थानान्तरण 1-11-97 से चांदपोल शाखा में कर दिया गया जहां श्रमिक ने 1-11-97 से 28-6-2000 तक निरन्तर चतुर्थ श्रेणी का कार्य किया अतः उसे पूर्णकालीन कर्मचारी सफाई कर्मचारी घोषित किया जाना चाहिये था लेकिन विपक्षी बैंक की चांदपोल शाखा के मैनेजर ने 29-6-2000 को मौखिक आदेश से 1/2 वेतन शृंखला अंशकालीन सफाई कर्मचारी के पद पर ही कार्य करने हेतु कहा व पूर्णकालीन सफाई कर्मचारी का काम न करने के लिए निर्देशित किया। अप्रार्थी ने श्रमिक की सेवा शर्तों में मनमाने तरीके से परिवर्तन कर दिया जो औद्योगिक विवाद अधिनियम की धारा 9-ए का उल्लंघन है। पांचवें द्विपक्षीय समझौते की धारा 18(4) के अनुसार पूर्णकालीन पद भरने के लिए अंशकालीन श्रमिकों को प्राथमिकता देनी आवश्यक है लेकिन अप्रार्थी ने श्रमिक को प्राथमिकता न देकर श्री गंगाराम व उत्तमसिंह को नियुक्त किया। अतः श्रमिक को 28-6-2000 से पूर्व की भांति पूर्णकालीन चतुर्थ श्रेणी कर्मचारी की वेतन शृंखला में वेतन व भत्ते दिये जावें तथा समझौते की धारा 18(4) की पालना में सभी परिलाभ दिलाये जाने का अवार्ड पारित किया जावे।

3. अप्रार्थी की ओर से जवाब में यह कहा गया है कि प्रार्थी को 13-8-92 को सब स्टाफ के वेतन के 1/3 स्थाई वेतन पर अंशकालिक सफाई कर्मचारी के पद पर नियुक्त किया गया था, प्रार्थी की नियुक्ति चांदपोल शाखा के लिए की गई थी लेकिन उक्त शाखा प्रारम्भ न होने से श्रमिक को निर्देशित किया गया कि जब तक चांदपोल शाखा प्रारम्भ नहीं होती श्रमिक सोजती गेट शाखा में अंशकालिक सफाई कर्मचारी के रूप में कार्य करे तत्पश्चात् चांदपोल शाखा प्रारम्भ होने पर श्रमिक को चांदपोल शाखा में कार्य करने हेतु निर्देश दिया गया, प्रार्थी की नियुक्ति अनुसूचित जन-जाति के लिए आरक्षित पद पर नहीं की गई थी, न ही प्रार्थी को स्थाई वेतन शृंखला में पदस्थापित किया गया, श्रमिक के निवेदन पर बैंक के नियमानुसार 21-3-98 को चांदपोल शाखा का कुल क्षेत्रफल 2197.77 वर्गफुट माना जाकर श्रमिक का वेतन सब स्टाफ के वेतन के 1/2 के बराबर किया गया, परन्तु यह शर्त भी अंकित की गई थी

कि उक्त शाखा में श्रमिक के अतिरिक्त अन्य कोई स्वीपर कार्यरत नहीं होना चाहिये। प्रार्थी को कभी भी स्थाई चतुर्थ श्रेणी कर्मचारी के वेतन का भुगतान नहीं किया गया अतः पूर्णकालिक चतुर्थ श्रेणी कर्मचारी को देय वेतन का प्रश्न ही पैदा नहीं होता, चांदपोल शाखा में पूर्णकालिक सफाई कर्मचारी का कोई पद ही नहीं है। अप्रार्थी द्वारा श्रमिक की किसी भी सेवा शर्तों में परिवर्तन नहीं किया गया। श्री गंगाराम व उत्तम सिंह प्रार्थी श्रमिक की नियुक्ति तारीख से पूर्व में ही नियुक्त किये जा चुके थे अप्रार्थी द्वारा समझौते के किसी प्रावधान का कोई उल्लंघन नहीं किया गया। प्रार्थी श्रमिक स्वयं ने नियुक्ति-पत्र की शर्तों के अनुरूप ही अप्रार्थी बैंक में अंशकालिक सफाई कर्मचारी के पद पर नियुक्त प्राप्त की जिससे प्रार्थी प्रतिबंधित है। प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

4. मांग-पत्र के समर्थन में श्रमिक नरेन्द्र कुमार मीणा ने स्वयं का शपथ-पत्र प्रस्तुत किया जिस पर अप्रार्थी प्रतिनिधि द्वारा जिरह की गई तथा अप्रार्थी की ओर से तेज सिंह प्रबन्धक का शपथ-पत्र प्रस्तुत किया गया जिस पर प्रार्थी प्रतिनिधि द्वारा जिरह की गई।

5. दोनों पक्षों के प्रतिनिधिगण की बहस सुनी गई। पत्रावली का अवलोकन किया गया।

6. यह रेफरेन्स दिनांक 28-6-2000 से प्रार्थी को पूर्ण वेतन के बजाए आधे वेतन दिये जाने के औचित्य के संबंध में किया गया है। रेफरेन्स की टर्म्स के अनुसार अन्य कोई बिन्दु रेफर नहीं किया गया है।

7. प्रार्थी ने अपनी साक्ष्य में यह कहा है कि उसकी नियुक्ति अंशकालीन सफाई कर्मचारी के रूप में 1/3 वेतन पर दिनांक 13-8-92 को अप्रार्थी बैंक द्वारा की गई एवं 29-8-92 से 30-8-97 तक उससे चतुर्थ श्रेणी कर्मचारी के रूप में कार्य लिया गया व नियमित वेतन शृंखला 815-20-1510 का वेतन भी दिया गया, इस अवधि में उससे कैश पीओन व दफतरी का काम लिया गया एवं 119 रुपये प्रतिमाह विशेष भत्ते का भुगतान भी किया गया। 1-11-97 को उसका स्थानान्तरण चांदपोल शाखा में किया गया वहां भी उससे चतुर्थ श्रेणी कर्मचारी के रूप में काम लिया गया व उसी अनुसार वेतन का भुगतान किया गया, 29-6-2000 के मौखिक आदेश द्वारा यह आदेशित किया गया कि प्रार्थी आधी वेतन शृंखला अंशकालीन सफाई कर्मचारी के पद पर कार्य करे, प्रार्थी ने यह भी कहा है कि बैंक ने उसकी सेवा शर्तों में मनमाने व इकतरफा तरीके से परिवर्तन कर दिया है, अप्रार्थी बैंक ने उसे प्राथमिकता न देकर गंगाराम व उत्तमसिंह को 7-11-94 को नियुक्त किया। प्रार्थी से की गई जिरह में ऐसा कोई तथ्य प्रकट नहीं हुआ है जिससे प्रार्थी ने जिस अवधि में कार्य करना बताया है उसे गलत माना जा सके।

8. अप्रार्थी बैंक की ओर से श्री तेजसिंह शाखा प्रबन्धक ने इस आशय की साक्ष्य दी है कि प्रार्थी की प्रथम नियुक्ति 13-8-92 के आदेशानुसार मूल वेतन के 1/3 की अदायगी की शर्तों पर की गई थी व इसके बाद दिनांक 29-6-2000 को प्रार्थी की नियुक्ति मूल वेतन के आधा की अदायगी की शर्त पर निरन्तर रही। प्रार्थी बैंक में अंशकालीन सफाई कर्मचारी का कार्य करता है, प्रार्थी स्वयं ने उक्त शर्तों को स्वीकृत दी थी जब कोई चतुर्थ श्रेणी कर्मचारी अवकाश पर रहता है तब प्रार्थी से कार्य लिया जाता है जिसके लिए प्रार्थी को अलग भुगतान किया जाता है। जिरह में इस गवाह ने यह

कहा है कि मैं नहीं कह सकता कि गंगाराम व उत्तमसिंह को पूर्णकालिक कर्मचारी सन् 1994 में नियुक्त करते समय प्रार्थी का केस क्यों नहीं कन्स्टिडर किया गया।

9. दोनों पक्षों की ओर से जो साक्ष्य प्रस्तुत हुई है उससे यह तथ्य सिद्ध है कि प्रार्थी दिनांक 13-8-92 से 28-6-2000 तक अंशकालीन सफाई कर्मचारी के रूप में कार्य कर रहा था। प्रार्थी स्वयं के अनुसार उसकी नियुक्ति प्रारम्भ में 1/3 वेतन पर अंशकालीन सफाई कर्मचारी के रूप में की गई। यद्यपि प्रार्थी ने अपनी साक्ष्य में यह कहा है कि उससे पूर्णकालिक कर्मचारी के रूप में अप्रार्थी बैंक द्वारा नियुक्ति दे दी गई हो। ऐसी स्थिति में भले ही उसे पूर्णकालिक कर्मचारी के समकक्ष वेतन पूर्व में दिया गया हो जब तक उसकी नियुक्ति किसी पूर्णकालिक कर्मचारी के पद पर नहीं की जाती तब तक वह पूर्णकालिक पद का वेतन प्राप्त करने का अधिकार नहीं रखता। पूर्णकालिक कर्मचारी के रूप में नियुक्ति न होने से यह नहीं माना जा सकता कि उसका वेतन कम किये जाने से यह नहीं पर उसे कार्य पर रखा गया था उन शर्तों का कोई उल्लंघन हुआ हो। अप्रार्थी बैंक की ओर से यह तर्क भी लिया गया है कि अप्रार्थी बैंक में पूर्णकालिक सफाई कर्मचारी का कोई पद नहीं है ऐसी स्थिति में इस प्रकार के पद पर उसे नियोजित नहीं किया जा सकता।

10. इस संबंध में प्रार्थी द्वारा यह तर्क लिया गया है कि बैंक के नियमानुसार उसे पदोन्ति पूर्णकालिक कर्मचारी के पद पर दी जानी चाहिये थी। यहां यह उल्लेखनीय है कि यह रेफरेन्स सिर्फ वेतन कम किये जाने के सम्बन्ध में ही है व पदोन्ति के लिए प्रार्थी हकदार था या नहीं, यह इस रेफरेन्स का विषय नहीं है। परन्तु यदि यह भी माना जाए कि यह विवाद इन्सीडेन्टली मुख्य विवाद से जुड़ा हुआ है तक भी जो नियम पूर्णकालिक कर्मचारी की नियुक्ति के सम्बन्ध में बैंक में प्रचलित हैं व जिसकी प्रति बैंक द्वारा प्रस्तुत की गई है कि उनके अनुसार पूर्णकालिक चतुर्थ श्रेणी कर्मचारी की नियुक्ति के लिए अंशकालीन सफाई कर्मचारियों को प्रिंफ्रेन्स दी जायेगी यदि वह आयु व शैक्षणिक योग्यता आदि शर्तों को पूरा करे। इस प्रकार की कोई साक्ष्य नहीं है कि प्रार्थी ने पूर्णकालिक कर्मचारी के लिए आवेदन किया हो न ही उसने शपथ-पत्र में भी इस प्रकार का कोई कथन नहीं किया है। इसके अतिरिक्त भी उक्त नियम के बावजूद भी यह महीं माना जा सकता कि अंशकालीन सफाई कर्मचारी ने पूर्णकालिक कर्मचारी के रूप में नियुक्ति स्वतः ही मान ली जायेगी। ऐसा प्रावधान न होने से जब तक वह प्रार्थी को पूर्णकालिक कर्मचारी के रूप में नियुक्ति न दे दी जावे तब तक वह यह क्लेम नहीं कर सकता कि उसका वेतन भी पूर्णकालिक कर्मचारी के बराबर होना चाहिये। अप्रार्थी की ओर से यह बताया गया है कि प्रार्थी को वेतन दिये जाने का आधार उसके द्वारा सफाई किये जाने वाले कारपेट एरिया है व जिस कार्यालय में उसे लगाया जाता है उसके कारपेट एरिया के अनुसार उसे वेतन दिया जाता है जो कम या ज्यादा हो सकता है। प्रार्थी यह नहीं बता पाया है कि उसकी नियुक्ति किसी नियमित पद पर नियमित वेतन शृंखला में हुई हो। ऐसी स्थिति में सिर्फ इस आधार पर कि उसने लम्बे समय तक पूर्णकालिक कर्मचारी के पद के समान वेतन प्राप्त किया है, उसका यह अधिकार

होना नहीं माना जा सकता कि भविष्य में भी वह पूर्णकालिक कर्मचारी के बराबर ही वेतन प्राप्त करता रहेगा।

11. इन परिस्थितियों में यह नहीं माना जा सकता कि प्रार्थी की सेवा शर्तों में कोई परिवर्तन कर उसका वेतन कम किया गया हो।

12. अप्रार्थी बैंक की ओर से ए.आई.आर. 2006 1806 के आधार पर यह तर्क लिया गया है कि जब तक नियमानुसार नियमित पद पर प्रार्थी की नियुक्ति न कर दी जाए तब तक वह नियमित पद के बराबर वेतन का अधिकारी नहीं है। इस प्रकरण में जो तथ्य सिद्ध हुए हैं उनसे स्पष्ट है कि नियमित पद पर प्रार्थी की नियुक्ति नहीं की गई है। ऐसी स्थिति में यदि नियमित पद का वेतन उसे न दिया जाकर उसका वेतन कम किया गया है तो इसमें कोई अवैधानिकता नहीं है चूंकि प्रार्थी की नियुक्ति का आधार वेतन शृंखला न होकर अंशकालीन कार्य या उसके द्वारा किये गये कार्य का क्षेत्रफल है।

13. उक्त विवेचन के अनुसार इस रेफरेन्स का उत्तर इस अवार्ड की टम्स में निम्न प्रकार दिया जाता है :

14. अप्रार्थी द्वारा दिनांक 28-6-2000 से प्रार्थी का वेतन कम किया जाना उचित व वैध था। प्रार्थी कोई अनुतोष प्राप्त करने का अधिकारी नहीं है।

15. इस अवार्ड को प्रकाशनार्थ भारत सरकार को प्रेपित किया जावे।

पुष्टेन्द्रसिंह हाड़ा, न्यायाधीश

नई दिल्ली, 20 सितम्बर, 2007

का. आ. 3049.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार विजया बैंक के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/त्रम न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 52/2004) को प्रकाशित करती हैं, जो केन्द्रीय सरकार को 19-9-2007 को प्राप्त हुआ था।

[सं. एल-12012/121/2004-आई आर (बी-11)]

राजिन्द्र कुमार, डेस्क अधिकारी

New Delhi, the 20th September, 2007

S.O. 3049.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 52/2004) of the Central Government Industrial Tribunal-cum-Labour Court, Bangalore as shown in the Annexure, in the Industrial Dispute between the management of Vijaya Bank, and their workmen, which was received by the Central Government on 19-9-2007.

[No. L-12012/121/2004-IR (B-II)]

RAJINDER KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**

Dated : 6th September, 2007

PRESENT

Shri A. R. Siddiqui, Presiding Officer

C.R. No. 52/2004

I PARTY

Shri M. Kalegowda,
15/74, Basaweshwaranagar
Block,
K.R. Nagar,
Mysore,
Karnataka

II PARTY

The Regional Manager,
Vijaya Bank,
Head Office,
41/2, M. G. Road,
Trinity Circle,
Bangalore-560 001

AWARD

1. The Central Government by exercising the powers confirmed by clause (d) of sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 referred this dispute vide order No.L-120 12/121/2004-IR(B-II) dated 29th September 2004 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Vijaya Bank is justified having dismissed Shri M. Kalegowda, Clerk from the services of the bank w.e.f. 30-09-2003? If not, what relief he is entitled to and from which date?"

2. By giving out the details of charges from pages 1 to 10 of the misconduct of misappropriation of the funds belonging to the management bank by way of charge sheet dated 23-12-2002, the management summed up the misconduct committed by the first party workman on pages 10 & 11 as under :—

"Your action in making fictitious credits to various Jewel Loan/VKC/LTD accounts and also PL A/cs without any supporting credit slips by misusing your official position and subsequently closing the accounts in fraudulent manner is an act prejudicial to the interest of the bank which constitute gross misconduct under sub-clause (j) of clause 5 of Memorandum of Settlement of Disciplinary Action Procedure for workmen dated 10-4-2002.

Your action in making alterations in the credit slips received by you by inflating the figures while entering to the Jewel Loan ledger thus paving the way for closure of Jewel Loan accounts unauthorisedly is an act of prejudicial to the interest of the bank which constitutes gross misconduct under sub-clause (j) of clause 5 of Memorandum of Settlement on

Disciplinary Action Procedure for Workman dated 10-4-2002.

Your act of issuing DDs/MTs in fraudulent manner by unauthorisedly debiting various loan accounts is an prejudicial to the interest of the bank which constitutes gross misconduct under sub-clause (j) of Clause 5 of Memorandum of Settlement on Disciplinary Action Procedure for Workmen dated 10-4-2002.

Your action in passing the quarterly slips of lesser amount and adjusting the difference amount to fictitious credit already given to jewel loan accounts and yours staff PL account are acts prejudicial to the interest of the bank which constitutes gross misconduct under sub-clause (j) of clause 5 of Memorandum of Settlement on Disciplinary Action Procedure for workmen dated 10-04-2002.

Your action in closing the VCC accounts prematurely without obtaining request letter from the parties and without the premission of the Branch Manager is an act prejudicial to the interest of the bank, which constitutes gross misconduct under sub-clause (j) of Clause 5 of Memorandum of Settlement on Disciplinary Action Procedure for Workmen dated 10-04-2002.

Your action in unauthorisedly debiting VKC accounts and crediting your personal LMV Account and deriving undue pecuniary benefits at the cost of the bank is an act of prejudicial to the interest of the Bank, which constitutes gross misconduct under sub-clause (j) of Clause 5 of Menorandum of Settlement on Disciplinary Action Procedure for Workmen dated 10-04-2002."

3. There being no explanation offered by the first party workman to the aforesaid charge sheet, a Domestic Enquiry was ordered against him and based upon the findings of the enquiry officer holding him guilty of the charges narrated in the charge sheets, he was dismissed from service w.e.f. 30-09-2003.

4. The first party by way of his claim statement, while, challenging the enquiry proceedings as opposed to the principles of natural justice (pleadings with respect to the enquiry proceedings are omitted there being a separate finding on the point) averred that he joined the services of the management on 13-2-1978 as a Clerk and was placed under suspension by order dated 6-8-2002 on the allegations of misappropriation of funds done by him while working as a Clerk in Ravandur branch of the management. He was also advised by the branch Manager to remit the alleged misappropriated funds and with great difficulty he remitted the entire alleged sum and sought for revocation of his suspension from the services. However, instead of revocation of his suspension order, he was served with the

charge sheet and his explanation to the charge sheet denying the charges not being found satisfactory, enquiry was ordered against him and he was served with the enquiry report and gave his written arguments on the said report dated 9-7-2003. The first party then narrated the nine contentions he had taken in response to the enquiry findings whereunder he discussed the evidence brought on record during the course of enquiry with the comments as to how the charges of misconduct levelled against him have not been proved by sufficient and legal evidence. Under the heading "grounds" the first party contended that he has not committed the alleged misconduct, that the management relied upon the departmental enquiry which had been held in violation of the principles of natural justice and the findings of the enquiry officer suffered from perversity; that the enquiry officer, the disciplinary authority as well as the Appellate Authority have failed to appreciate the submissions made by the first party while holding him the guilty of the charges of misconduct and passing the impugned punishment order; that the management did not take into consideration the twenty five years of service rendered by the first party while imposing the punishment of dismissal and also the fact that the first party has been made to pay more than the alleged misappropriated amount to the bank on the advice of the branch manager and so also the plight of the first party who has got two unmarried daughters, one college going son apart from his family and aged parents and the fact that he has to return back the loan amount he has taken for construction of residential house. Therefore, he contended that that at least these factors should have weighed in the minds of the authorities of the bank while imposing the punishment and therefore, the order of dismissal is highly disproportionate to the alleged misconduct; that the first party is not gainfully employed after his dismissal from service and therefore, award may be passed against him setting aside the dismissal order with relief of reinstatement and full back wages and continuity of service and other consequential benefits.

5. The management by way of its Counter Statement, while giving out the details of charges committed by the first party workman, among other things contended that after the charge sheet was served upon the first party, he sought for time to give reply but did not come forward to submit his explanation, thereafter. Therefore, Domestic Enquiry was ordered against him being participated by himself and DR giving him sufficient and reasonable opportunity to defend himself, that on the closure of the enquiry, the enquiry officer submitted his findings holding the first party guilty of the charges and thereupon the disciplinary authority forwarded a copy of the enquiry report to the first party seeking his explanation; that on the receipt of the explanation from the first party, the disciplinary authority perused the enquiry records including the enquiry findings and being satisfied with the reasonableness of

the findings of the enquiry officer, rejected his representation and thereupon, passed an order proposing the punishment of dismissal against the first party. It was communicated vide letter dated 5-9-2003 and in response to that the first party once again submitted his written representation dated 12-9-2003 and after having considered the same and keeping in view the gravity of the misconduct committed by him and also affording him a personal hearing in the matter, impugned punishment order was passed confirming the punishment of dismissal proposed to him, already; that the first party then submitted his appeal before the Appellate Authority and that also came to be dismissed by order dated 25-11-2003; that the total amount involved in the fraud committed by the first party was Rs. 4,35,908 and the first party has remitted Rs. 4,29,500 in pursuance to his fraudulent acts; that the first party by his letter dated 5-4-2002, marked during the course of enquiry at Ex. MEX 15 has admitted the fact of committing the fraud on the bank by misappropriating the huge sum belonging to the bank and by his another letter dated 2-9-2002, marked at Ex. MEX 16, he has further categorically admitted the commission of the fraud by him; that earlier to the present chargesheet, while, the first party was working as a clerk at Bank's Gowdagere Branch during the period from 5-9-1990 to 30-5-2001, he had committed serious lapses such as misappropriation of the bank's funds by giving fictitious credits to various accounts etc., wherein the total amount involved was Rs. 7,30,532 which amount he remitted back to the bank after the fraud came to light. In this connection he was served with the charge-sheet, DE was conducted but no final order as such was passed against the first party as by that time he was already dismissed from service by order dated 30-9-2003 i.e. the impugned punishment order. Therefore, the management no more reposes confidence in such an employee and in the result the dismissal of the first party under the circumstances is legal, proper and justified not calling for any interference especially in the light of the series of fraudulent acts committed by the first party. In the result, the management requested this tribunal to reject the reference.

6. Having regard to the respective contentions of the parties on the point of validity and fairness or otherwise of the enquiry proceedings, this tribunal by order dated 19-12-2005 framed the following Preliminary Issue :

"Whether the Domestic Enquiry conducted against the first party by the second party is fair and proper?"

7. During the course of trial of the said issue, the management examined the enquiry officer as MW1 and got marked the documents at Ex. M1 to M5 (a) and M6 series. On 19-6-2006, the first party before this court submitted that he has already filed his affidavit on 16-9-2005 on merits of the case and the same may be read in evidence on DE issue. On 24-8-2006, the first party having

appeared before this tribunal filed a memo that he has no evidence on DE and on merits and he may be heard on merits on the evidence already led. Therefore, in the light of the aforesaid memo, Domestic Enquiry issue was answered in favour of the management holding that the DE conducted against the first party by the second party is fair and proper. On the same date the learned counsel for the first party was heard on merits and the case was adjourned for arguments to be advanced on behalf of the management. On 4-9-2006, the management filed interlocutory application seeking permission of this tribunal to lead further evidence on past records of the first party which came to be allowed there being no objection on behalf of the first party. Thereupon, the management examined the second witness as MW2 getting marked further documents at Ex. M7 to M9. He was recalled and cross-examined on behalf of the first party on 26-3-2007. Thereupon, I have heard the learned counsels for the respective parties on mentis and posted the case this day for award.

8. Learned counsel for the first party, Shri G. G. Bhat for Shri N. G. Phadke in his arguments submitted that the punishment of dismissal passed against the first party is very severe in nature having regard to the fact that he had served the Second Party/Management for a period of about 25 years. He submitted that there has been no loss caused to the management bank as the first party has made good of the said loss by remitting the alleged misappropriated funds of Rs. 5 lakhs and odd on the advise of the Branch Manager. He requested this tribunal to invoke its powers under Section 11A of the ID Act, to impose some minor punishment in place of dismissal order as the first party has got another 5 years service to attain the age of superannuation. Learned counsel to make out his point that this tribunal has got discretionary powers to reappreciate the evidence already brought during the course of enquiry and to modify the punishment under Section 11A of the ID Act, cited the following decisions vide memo dated 19-7-2007 :

1. 1984 (1) SCC 152.
2. 2005 III LLJ 423.
3. 1998 LABIC 3297.
4. 2007 (I) LLJ 189 (A.P.).
5. 1973 (1) SCC 813.

9. Learned counsel for the first party however, did not argue on the point as to whether the findings of the enquiry officer suffered from perversity or not.

10. Whereas, learned counsel for the management while supporting the findings of the enquiry officer as legal and justified, keeping in view the voluminous oral and documentary evidence produced during the course of enquiry further contended that the first party deserves no

leniency at the hands of this tribunal keeping in view the gravity of the charges of misconduct leveled against the first party by way of the present charge-sheet and taking into consideration his past records whereunder he was once again charge-sheeted for having committed the misconduct of misappropriation of the funds of more than Rs. 7 lakhs while working as a Clerk in different branches. With regard to the decisions cited on behalf of the first party, learned counsel submitted that though this court has got discretionary powers under Section 11A of the ID Act, to reduce the punishment and so also to reappreciate the evidence during the course of enquiry, he submitted that the case on hand is not deserving any such discretionary powers to be exercised in favour of the first party having regard to the gravity of the charges. He also submitted that in some of the decisions cited on behalf of the first party, the misconduct committed by the delinquent concerned was quite minor in nature, not warranting the punishment of dismissal and therefore, those decisions will not come to the rescue of the first party under the facts and circumstances of the present case.

11. After having gone through the records, I find substance in the arguments advanced for the management. As noted above, the learned counsel representing the first party did not argue on the point as to whether the findings of the enquiry officer suffered from any perversity. That apart, I have gone through the findings of the enquiry officer and I am of the considered view that findings are based upon sufficient and legal evidence. During the course of enquiry as many as 17 documents were marked at Ex. MEX 1 to 17, including the aforesaid two letters written by the first party himself on 5-4-2002 and 2-9-2002 vide Ex. MEX 15 and 16 whereunder he admitted the charges of misconduct committed by him. The management apart from these documentary evidence, examined the Investigation Officer as MW1 and the then Branch Manager as MW2. The learned enquiry officer after having discussed, elaborately, the oral statement of MW1 with reference to the aforesaid documents on each and every charge of misconduct leveled against the first party has given his findings by giving valid and cogent reasonings. The findings of the enquiry officer spreading over 36 pages would disclose that the oral and documentary evidence produced by the management has been referred, discussed and commented by the enquiry officer at length and threadbare and taking support of this material on record, he had given his reasonings holding the workman guilty of the charges. He also considered the defence taken by the first party and rejected the same by giving valid and cogent reasonings. The main grievance rather the defence taken by the first party was that the documents produced during the course of enquiry saying that they are under his handwriting have not been proved legally as his writing or signatures were not subjected to expert's opinion. His next contention was that he was working only as a Clerk and all

the work performed by him was being verified and authenticated by the supervisory staff and therefore, it was not proper to fix up the responsibility on him alone for all the lapses. With regard to the DDs/MTs in question issued by him, he took up a contention that they have also been signed by the branch manager and therefore, it is wrong to say that he issued them, fraudulently. These contentions of the first party have rightly been rejected by the enquiry officer and thereafter by the Disciplinary Authority giving valid reasonings to that effect. Therefore, it is to be noted that there has been sufficient and legal evidence produced by the management during the course of enquiry in order to substantiate the charges of misconduct leveled against the first party and that based on these materials the enquiry officer was very much justified in coming to the conclusion that the first party is guilty of all the 16 charges of misconduct leveled against him in charge-sheet. Therefore, by no stretch of imagination it can be said that findings suffered from any perversity.

12. Now, coming to the decisions cited on behalf of the first party on the point that this tribunal has got discretionary powers under Section 11A of the ID Act, to modify the punishment having regard to the nature and gravity of the misconduct, there can be no two opinions on this preposition of law. Learned counsel for the first party as noted above, also has cited certain decisions where-under discretionary powers under Section 11A of the ID Act have been exercised and punishment of dismissal and termination of services etc. have been reduced to certain minor punishment. If one such decision reported in 2007-1-LLJ 189, the delinquent concerned was found guilty of the charges of lack of diligence in the discharge of his duties as Cotton Purchase Officer and the labour court exercising the powers under the above said Section held that punishment of his removal from service was not warranted. He was ordered to be reinstated in service. The High Court in Writ Petition modified the said Labour Court's award and the full bench of the High Court in Appeal held the view that the award of the labour court cannot be said to be arbitrary or perverse when passed in exercising of its discretion under Section 11A of the ID Act. In a decision reported in 1998 LAB IC 3297, the delinquent concerned was dismissed from service for having committed theft of small quantity of old curtain wire and three small drill bits. Their Lordship of our Hon'ble High Court observed that withholding of 90 per cent of the back wages for a period of 10 years is disproportionate to the misconduct committed by the appellant (delinquent) having regard to the small quantity of the aforesaid theft property.

13. In my humble opinion the view taken by their Lordship of Supreme Court and our Hon'ble High Court having regard to the facts and circumstances of the case involved therein, cannot be taken help of by the first party, under the facts and circumstances of the present case. The gravity of the misconduct in the aforesaid two cases cannot

be compared to the gravity of the misconduct committed by the first party in the instant case. Here is the case wherein, the first party has committed fraud and misappropriation of the funds in series of the transactions dealt by him. The amount of misappropriation of the funds belonging to the bank was as huge as more than 5 lakhs. That apart, the management before this tribunal has produced the evidence in Ex. M7 to M9 to disclose that in the past also the first party was involved in a similar nature of the misconduct involving a huge sum of Rs. 7 lakhs and odd.

14. After having regard to the facts and circumstances of the case and the gravity of the charges of misconduct committed by the first party, the punishment of dismissal passed against him cannot be said to be in any way disproportionate or shockingly disproportionate having regard to the gravity of the misconduct committed by him. In the result, the first party deserves no leniency at the hands of this tribunal and therefore, punishment of dismissal passed against him is to be confirmed. In the result and the reasons foregoing the reference stands rejected and hence the following award :

AWARD

The reference stands rejected. No costs.

(Dictated to PA, transcribed by her, corrected and signed by me on 6th September, 2007.)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 21 सितम्बर, 2007

का. आ. 3050.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सालथ सेन्ट्रल रेलवे के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में, केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलौर के पंचाट (संदर्भ संख्या 35/1994) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21-9-2007 को प्राप्त हुआ था।

[सं. एल-41012/66/1993-आई आर (बी-1)]
अजय कुमार, डेस्क अधिकारी

New Delhi, the 21st September, 2007

S.O. 3050.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 35/1994) of Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the Industrial Dispute between the management of South Central Railway and their workmen which was received by the Central Government on 21-9-2007.

[No. L-41012/66/1993-IR (B-1)]
AJAY KUMAR, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**

Dated : 3rd September, 2007

PRESENT

Shri A. R. Siddiqui, Presiding Officer

C. R. NO. 35/1994

I PARTY

Shri B. H. Kakargal
(Since deceased rep.
by LRs)
No. 7/3, Arvindnagar,
Old Hubli,
HUBLI-24

II PARTY

The Divisional Railway Manager
South Central Railway,
HUBLI-580 020

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-41012/66/93-IR (DU) dated 28th March, 1994 for adjudication on the following schedule :

SCHEDULE

"Whether the management of South Central Railway, Hubli is justified in removing Shri B. H. Kakargal from service ? If not, to what relief the workman is entitled ?"

2. The case of the first party workman (since deceased, LRs are brought on record) as made out in the Claim Statement, in brief, is that he joined the services of the management as Khalasi on 17-11-1962 and was promoted as Foreman Grade 'C' in the year 1968. He was further promoted as Shunter/Driver in the year 1974 and then was promoted as Driver in the year 1981 and then as Driver 'B' in the year 1984. Therefore, he discharged his duties throughout with utmost devotion having unblemished record of service for about a period of 25 years; that on 10-10-1987 he was served with a chargesheet issued under Rule 9 of the Railway Servants (Discipline and Appeal) Rules, 1968 on the allegation that while he was functioning as a Driver in Train No. MU-4 Up Del. Goods between CNR and MAO station on 2-9-1987 failed to observe the Engineering Speed Restriction Board at km. 78/1-2 and to restrict the speed of his train to 30 KMPH applied break judiciously to control the speed looked back, frequently, to ensure that the train was running in a safe and proper manner. It was further alleged that he refused to give his blood for clinical analysis when was found under influence of Alcohol while on duty and that while taking the parted portion of the train to MAO station from the site of accident, failed to take a written permission

and necessary instructions from the guard as per the correct procedure; that the first party replied to the said chargesheet effectively denying all the allegations with explanation that the Train No. MU4 left CNR at about 12.55 hours and covered the distance of 4 Km within 10 minutes indicating that he was not driving the train in excess of speed; however, the management not being satisfied ordered domestic enquiry into the matter without appointing any Presenting Officer and that the proceedings of the enquiry conducted against him were clumsy and unrealistic and far from truth much less the chargesheet being issued by incompetent authority. The first party also challenged the enquiry findings as bad in law and not based upon evidence and that the evidence brought on record during the course of enquiry was not considered properly. He also challenged the impugned punishment order passed upon the aforesaid findings. He contended that the appeal filed by him was rejected and thereupon his revision petition was also dismissed. He, then, filed a mercy petition and that also came to be rejected on 23-02-1989. Then, he raised the dispute before the ALC concerned and on account of the failure report it resulted into the present reference proceedings. He also contended that the penalty imposed upon him is highly disproportionate when compared to the misconduct alleged to have been committed by him. therefore, he requested to pass an award reinstating him in service with all consequential benefits.

3. The management by its Counter Statement, while not disputing the fact of the first party joining its services as Khalasi on 17-11-1962 and the promotions given to him from time to time, ultimately, promoting him as Driver-B however, contended that the chargesheet was issued to him for the misconduct alleged and thereupon a detailed DE was conducted against him having followed the provisions of Discipline and Appeal Rules and that the appointment of the Presenting Officer was not mandatory under the said Rules. The management contended that along with the chargesheet imputation statement of misconduct was issued to the first party and he was furnished with all the documents copies and list of witnesses. Thereupon, enquiry was conducted giving him sufficient and reasonable opportunity to defend himself and on the basis of the enquiry findings, he was punished accordingly imposing the penalty of removal from service keeping in view the gravity of the misconduct committed by him. Therefore, reference is liable to be rejected.

4. It is seen from the records that based on the respective contentions of the parties with regard to the validity and fairness or otherwise of the enquiry proceedings, this tribunal on 21-10-1994 framed the following Preliminary Issue :—

"Whether the Domestic Enquiry conducted against the first party by the second party is fair and proper ?"

5. During the course of trial of the said issue, the enquiry officer was examined MW1 and 4 documents were marked at Ex. M1 to M4. The deceased's LR was examined as rebuttal evidence on 15-6-2001 as the first party by then had expired on 7-11-1996.

6. After having heard the learned counsels for the respective parties, my learned Predecessor answered the above said issue in favour of the management holding that the enquiry conduct against the deceased first party was fair and proper. Thereupon, by award dated 27-8-2001 the reference on hand came to be rejected by my learned Predecessor. Aggrieved by this award Smt. Kasavva, the only LR to the deceased first party moved the Hon'ble High Court in Writ Petition No. 43103/2001 and his Lordship of our Hon'ble High Court by order dated 6-3-2006 set aside the award and remanded the matter back to this tribunal for fresh adjudication giving opportunity to the deceased widow to substantiate the challenge to the order of dismissal. After the remand once again both the parties were given opportunity to lead evidence on the point of DE as well as on merits of the case. The management did not lead further evidence and whereas, Smt. Kasavva filed an affidavit. After hearing the learned counsels for the parties this tribunal once again on DE issue passed an order dated 5-3-2007 answering the issue in favour of the management holding that the Domestic Enquiry conducted against the deceased first party is fair and proper. Thereupon, I have heard the learned counsels for the respective parties on merits and the case is posted this day for award.

7. Learned counsel of the first party submitted his written arguments wherein he repeated the various averments made in the claim statement and submitted that the first party had left large number of family members and he had no other source of income except the service he was rendering with the management. He requested this tribunal to modify the dismissal order by imposing a minor penalty as the punishment of dismissal was highly excessive and extreme compared to the gravity of the misconduct committed by the deceased first party.

8. Whereas, learned counsel for the management contended that findings of the enquiry officer were based upon sufficient and legal evidence supported by valid and cogent reasonings and therefore, punishment of removal from service was quite appropriate to the charges of misconduct committed by the first party.

9. Now therefore, in the light of above finding of this tribunal on Domestic Enquiry Issue in favour of the management, the two points which emerge for our consideration are as to :

(i) Whether the findings of the enquiry officer suffered from perversity and if not,

(ii) Whether the impugned punishment order removing the first party from his service was disproportionate to the charges of misconduct committed by him.

10. As far as the question of perversity of the findings is concerned, it is to be noted at the outset that learned counsel in his written arguments has not taken up this question and never challenged the validity of the enquiry findings either on merits of the case or on the point of law. That apart, if we peruse the enquiry findings it becomes crystal clear that the enquiry officer had taken into account and discussed at length the evidence brought on record. He after having referred and discussed the evidence on record ultimately came to the conclusion that the charges of misconduct levelled against the first party have been proved. A perusal of the findings will disclose that first of all the enquiry officer examined and analysed the evidence on the point of 'high speed' in which the first party was found running the train at the relevant point of time. He after having discussed the evidence came to the conclusion that at the given point of time the first party was negligent and rash in driving the train and he came to the conclusion that it is because of the high speed of the train and application of the brakes by the first party as a Driver, the accident in question took place. He also gave a finding on the point that the first party was found under the influence of Alcohol at the relevant point of time as per the certificate issued by the Doctor brought on record during course of enquiry. Therefore, on both these charges the enquiry officer has taken into consideration the evidence oral and documentary and discussed it at length by giving valid and cogent reasonings coming to the conclusion that they are proved against the first party. Therefore, by going through the findings, it cannot be said that they in any way suffered from perversity.

11. Now, the question to be considered would be about the quantum of the punishment. There appears to be very much substance in the submission made by the learned counsel for the first party that keeping in view the nature of the misconduct namely, the rash negligent driving committed by the first party and the fact that he was found under the influence of Alcohol at the time of driving, the punishment of removal from service borders on extremity particularly, in view of the fact that the first party rendered unblemished service of about 25 years with the management in different capacities and ultimately as a Driver-B having received promotions from time to time. Therefore, punishment of removal is liable to be set aside.

12. Now, since the workman died long back in the year 1996 itself, relief of reinstatement survives no more and the question of imposing upon him any minor punishment also will not be of any consequence having regard to the fact that he was removed from service as far back as on 29-2-1988, the proper and reasonable relief to be

awarded to the LR of the deceased in my opinion would be by way of compensation in lump sum. In the result, ends of justice will be met if she is awarded a compensation of Rs. 2 lakhs in lump sum in lieu of full and final settlement of the claim of the deceased workman against the management. Hence the following Award :

AWARD

The management is directed to pay a sum of Rupees Two lakhs to the widow of the deceased first party by way of compensation in lieu of his full and final claim against the management minus the amount already paid to him by way of terminal benefits when was removed from service. The amount shall be paid within a period of 3 months from the date of publication of the award or else, it shall carry interest at the rate of 10 per cent per annum till the realization of the amount. No order to cost.

(Dictated to PA transcribed by her corrected and signed by me on 3rd September, 2007.)

A. R. SIDDIQUI, Presiding Officer

नई दिल्ली, 24 सितम्बर, 2007

का. आ. 3051.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीमेन्ट कॉर्पोरेशन ऑफ इंडिया लिमिटेड, नई दिल्ली के प्रबंधन के संबद्ध में नियोजकों और उनके कर्मकारों के बीच, औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय-II, नई दिल्ली के पंचाट (संदर्भ आई डी सं.-55/2003, 46/2003, 52/2003 और 54/2003) जो उक्त अधिकरण द्वारा दिनांक 10-5-2007 के आदेश द्वारा संशोधित किया गया है, जैसा कि अनुबंध में दर्शाया गया है, को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-9-2007 को प्राप्त हुआ था।

- [i] सं. एल-29011/93/2002-आई आर (एम.)
 - [ii] सं. एल-29011/100/2002-आई आर (एम.)
 - [iii] सं. एल-29011/92/2002-आई आर (एम.)
 - [iv] सं. एल-29011/90/2002-आई आर (एम.)
- एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 24th September, 2007

S. O. 3051.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref I.D. No. 55/2003, 46/2003, 52/2003 and 54/2003) of the Central Government Industrial Tribunal-cum-Labour Court-II, New Delhi which has been modified by the said Tribunal by Order dated 10-5-2007 as shown in the annexure in the Industrial Dispute between the employers in relation to the management of Cement Corporation of India Ltd., New

Delhi and their workman, which was received by the Central Government on 24-9-2007.

- [i] No. L-29011/93/2002-IR (M)
- [ii] No. L-29011/100/2002-IR (M)
- [iii] No. L-29011/92/2002-IR (M)
- [iv] No. L-29011/90/2002-IR (M)]

N. S. BORA, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

R. N. RAI, Presiding officer

M.A. Nos. 3/2007 & 4/2007

Connected with I.D. Nos. 55/2003, 46/2003, 52/2003 and 54/2003

In the matter of :—

Shri Sunil Kumar Gaur and 39 Ors.,
C/o. President,
Cement Corporation of India,
Delhi Grinding Unit Workers' Union,
Okhla Industrial Area, Phase-I,
New Delhi-110 020.

Versus

The General Manager,
Cement Corporation of India Limited,
Delhi Cement Grinding Unit,
Okhla Industrial Area,
Phase-I, New Delhi-110 020.

CORRIGENDUM

1 The names of Shri Bipin Kesri Roy and Shri Ramesh Kumar are to be added after the name of Smt. Radha Devi at Page No. 48 in Paragraph-5, Line 9th (ninth) before the second last word in view of Misc. application Nos. 3/2007 and 4/2007. The name of Shri Bipin Kumar Choudhary appearing at Paragraph-4, Line second be corrected as Binay Kumar Choudhary. The entire Paragraph-3 is deleted. The award dated 1-12-2006 be corrected and published afresh accordingly in view of order dated 9-4-2007 and 8-5-2007.

Dated : 10-5-2007

R. N. RAI, Presiding Officer

नई दिल्ली, 24 सितम्बर, 2007

का. आ. 3052.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मै. स्टेन इन्स्ट्रेशनल प्रा. लिमिटेड के प्रबंधतत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय, कोटा के पंचाट (संदर्भ

संख्या 8/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-9-2007 को प्राप्त हुआ था।

[सं. एल-29012/9/2001-आई आर (एम.)]
एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 24th September, 2007

S.O. 3052.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 8/2001) of the Central Government Industrial Tribunal/Labour Court, Kota now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of M/s. Stone International Pvt. Ltd., and their workman, which was received by the Central Government on 24-9-2007.

[No. L-29012/9/2001-IR (M)]
N. S. BORA, Desk Officer

अनुबन्ध

न्यायाधीश, औद्योगिक न्यायाधिकरण/केन्द्रीय/कोटा (राज.)

पीठासीन अधिकारी, श्री गोवर्धन बाढ़दार, आर.एच.जे.एस.

निर्देश प्रकरण क्रमांक : ओ. न्या.- 8/2001

दिनांक स्थापित : 19-4-2001

प्रसंग : भारत सरकार, श्रम मंत्रालय, नई दिल्ली के आदेशांक एल. 29012/9/2001/आई आर (एम) दि. 30-3-2001

निर्देश/विवाद अन्तर्गत धारा 10 (1)(घ) औद्योगिक विवाद
अधिनियम, 1947

प्रध्य

अब्दुल रशीद मैकेनिक,
द्वारा संयुक्त महामंडी,
हिन्द मजदूर सभा,
बंगाली कालोनी,
छावनी, कोटा।

... प्रार्थी श्रमिक

एवं

माइंस मैनेजर,
मै. स्टोन इन्टरनेशनल प्रा. लि.,
चेन्टर तहसील, रायगंजमण्डी,
जिला कोटा (राज.)

... अप्रार्थी नियोजक

उपस्थित :

प्रार्थी श्रमिक की ओर से प्रतिनिधि : श्री एन. के. तिवारी
अप्रार्थी नियोजक की ओर से : एकपक्षीय कार्यवाही

* अधिनिर्णय दिनांक : 22-8-2007

अधिनिर्णय

भारत सरकार, श्रम मंत्रालय, नई दिल्ली के उक्त आदेश/अधिसूचना दिनांक 30-3-2001 के जरिये निम्न निर्देश/विवाद, औद्योगिक विवाद अधिनियम, 1947 (जिसे तदुपरान्त “अधिनियम” से सम्बोधित किया जाएगा) की धारा 10(1)(घ) के अन्तर्गत इस न्यायाधिकरण को अधिनिर्णयार्थ प्रेषित किया गया है :—

“Whether the action of the management of M/s. Stone International Pvt. Ltd., Chechat in dismissing the services of Shri Abdul Rashid on 27-1-2000 from the post of Supervisor is legal and justified ? If not to what relief Shri Abdul Rashid is entitled and from which date ?”

2. निर्देश/विवाद, न्यायाधिकरण में प्राप्त होने पर पंजीबद्ध उपरान्त पक्षकारों को सूचना विधिवत् रूप में जारी की गयी।

3. प्रार्थी श्रमिक अब्दुल रशीद की ओर से क्लेम स्टेटमेंट प्रस्तुत कर संक्षेप में यह अभिकथित किया गया है कि उसे अप्रार्थी प्रबन्धक, स्टोन इन्टरनेशनल प्रा. लि., रायगंजमण्डी जिला कोटा (जिसे तदुपरान्त “अप्रार्थी नियोजक” से सम्बोधित किया जाएगा) द्वारा दि. 1-1-1986 से मैकेनिक के पद पर सेवा में नियोजित किया गया था तदुपरान्त उत्कृष्ट कार्य के कारण उसे चीफ मैकेनिक के पद पर पदोन्तत कर दिया गया। अक्तूबर 1998 में अप्रार्थी नियोजक द्वारा अपना सम्पूर्ण कार्य कहन्हैयालाल पारेता से ठेके पर करबाना प्रारम्भ करने के कारण ठेकेदार व अप्रार्थी प्रार्थी को परेशान करने लगा तथा जब 27-1-2000 तक को प्रार्थी अपनी छूटी कर रहा था तो नियोजक का चपरासी एक पत्र लेकर आया जिसे प्रार्थी ने लेने से भना कर दिया जो डाक से भेजा गया जिसमें प्रार्थी पर कई झुठे आरोप लगाए गए और नौकरी से निकाल दिया। प्रार्थी ने दि. 1-1-1986 से 27-1-2000 तक निरन्तर कार्य करते हुए 240 दिन से भी अधिक समय तक कार्य पूर्ण कर लिया था तथापि हटाने से पूर्व अधिनियम की धारा 25-एफ के प्रावधानान्तर्गत कोई नोटिस अथवा नोटिस वेतन व छंटनी मुआवजा आदि नहीं दिया ना वरिष्ठता सूची का प्रकाशन किया गया, कनिष्ठ श्रमिकों को नियोजन में बनाए रखा गया, पुनः नियोजन का अवसर भी प्रदान नहीं किया जोकि धारा 25-जी व एच की अवहेलना है। हटाने से पूर्व पत्र में वर्णित आरोपों के सम्बन्ध में कोई आरोप-पत्र नहीं दिया, ना कोई स्पष्टीकरण मांगा गया, ना बचाव या अपना पक्ष प्रस्तुत करने का अवसर दिया गया, ना विभागीय जाँच की गयी। इस तरह सेवा से हटाया जाना अनुचित एवं न्याय के नैमित्तिक सिद्धांतों के विपरीत है। प्रार्थना की गयी है कि उसे पिछले सम्पूर्ण वेतन व समस्त लाभों सहित सेवा में पुनर्स्थापित किए जाने का अनुतोष प्रदान किया जाये।

4. अप्रार्थी नियोजक के विरुद्ध बावजूद तामील नोटिस के न्यायालय में उपस्थित नहीं होने से दि. 13-9-2001 को एकपक्षीय कार्यवाही के आदेश पारित किए गए।

5. साक्ष्य एकतरफा में प्रार्थी ने स्वयं का शपथ-पत्र व प्रलेखीय साक्ष्य भी प्रस्तुत की। बहस एकतरफा सुनी गयी व पत्रावली का ध्यानपूर्वक अवलोकन किया गया।

6. प्रार्थी प्रतिनिधि ने तर्क दिया है कि प्रार्थी द्वारा क्लेम स्टेटमेन्ट में वर्णित तथ्यों के समर्थन में शपथ-पत्र प्रस्तुत किया गया है तथा प्रदर्श डब्ल्यू. 1 दिनांकित 27-1-2000 का पत्र अप्रार्थी नियोजक द्वारा प्रार्थी को हटाए जाने के सम्बन्ध में जारी किया गया है जिसकी फोटोप्रिति अभिलेख पर प्रस्तुत की गयी है जिससे स्पष्ट है कि नियोजक द्वारा अधिनियम के आज्ञापक प्रावधानों की पालना किए बिना प्रार्थी की छंटनी की गयी है। प्रार्थी ने दि. 1-1-1986 से 27-1-2000 तक निरन्तर कार्य करते हुए 240 दिन से भी काफी अधिक समय तक कार्य कर लिया है। अप्रार्थी नियोजक द्वारा नौकरी से हटाए जाने से पूर्व कोई घरेलू जाँच नहीं की गयी है। प्रार्थी को हटाए जाने का आदेश अवैध घोषित किया जाये।

7. प्रस्तुत प्रकरण में नियोजक ने तामील होने के पश्चात् प्रतिरक्षा में उपस्थित होकर कोई जवाब, मौखिक व दस्तावेजी साक्ष्य प्रस्तुत नहीं की है। प्रार्थी द्वारा प्रस्तुत मौखिक व प्रलेखीय साक्ष्य का परिशीलन किया गया।

8. स्टेटमेन्ट क्लेम में वर्णित तथ्यों का प्रार्थी ने अपने शपथ-पत्र में समर्थन करते हुए कथन किया है कि प्रतिपक्षी के यहाँ मैंने दि. 1-1-1986 से 27-1-2000 तक निरन्तर कार्य करते हुए 240 दिन से भी अधिक समय तक कार्य कर लिया था। प्रतिपक्षी ने मेरे को नौकरी से हटाने से पूर्व एक माह का नोटिस नहीं दिया, ना ही इसके बदले एक माह के अग्रिम वेतन का भुगतान किया। शपथ-पत्र में यह भी अभिकथित किया है कि नौकरी से हटाए जाने के पत्र 27-1-2000 में वर्णित आरोपों के सम्बन्ध में कोई आरोप-पत्र नहीं दिया गया। आरोपों के सम्बन्ध में कोई स्पष्टीकरण भी नहीं मांगा गया तथा मेरे को अपना पक्ष प्रस्तुत करने, बचाव पेश करने का अवसर भी प्रदान नहीं किया। नौकरी से हटाए जाने से पूर्व किसी प्रकार की कोई विभागीय जाँच भी नहीं की गयी। प्रतिपक्षी ने न्याय के नैसर्गिक सिद्धांतों की अवहेलना की। प्रार्थी की ओर से पत्राचाली पर कार्यालय सहायक श्रमायुक्त (केन्द्रीय) के समक्ष समझौता वार्ता से सम्बन्धित दस्तावेज की फोटोप्रितियाँ प्रस्तुत की जिनसे स्पष्ट है कि सहायक श्रमायुक्त द्वारा नियोजक को नोटिस दिए जाने के उपरान्त भी नियोजक की ओर से कोई जवाब प्रस्तुत नहीं किया गया, ना ही समझौता कार्यवाही में भाग लिया गया। इस न्यायाधिकरण के समक्ष भी नियोजक द्वारा कोई जवाब प्रस्तुत नहीं किया गया और ना ही कोई मौखिक व प्रलेखीय साक्ष्य प्रस्तुत की गयी। ऐसी स्थिति में प्रार्थी द्वारा प्रस्तुत शपथ-पत्र व दस्तावेजात पर अविश्वास किए जाने का कोई आधार प्रकट नहीं होता है। दिनांक 27-1-2000 को अप्रार्थी नियोजक द्वारा जारी पत्र की छायाप्रति प्रदर्श डब्ल्यू. 1 से स्पष्ट है कि नियोजक द्वारा प्रार्थी को नौकरी से हटाये जाने के पूर्व अधिनियम की धारा 25-एफ की पालना नहीं की गयी है, अतः उसे सेवा से हटाया जाना अवैध है।

9. जहाँ तक अनुतोष का प्रश्न है, प्रार्थी की ओर से अभिलेख पर ऐसी कोई साक्ष्य प्रस्तुत नहीं की गयी है कि वह नियोजक द्वारा किसी स्थायी पद पर नियुक्त किया गया हो और वह नियोजक का स्थायी कर्मचारी के रूप में कार्यरत रहा हो। नियोजक की ओर से भी इस तथ्य का कोई खण्डन नहीं किया गया है कि अप्रार्थी नियोजक के यहाँ प्रार्थी द्वारा 240 दिन तक कार्य नहीं किया गया हो। इस सन्दर्भ में माननीय

राज. उच्च न्यायालय द्वारा नवीनतम न्यायदृष्टांत "2007 (114) एफ. एल. आर. 314-जोनल मैनेजर, यू. को. डैंक बनाम रामप्रकाश प्रजापति" में पैग (22) में निम्न न्यायसिद्धांत प्रतिपादित किया गया है :—

"It is settled position of law that in case of violation of mandatory provisions like Section 25-F of the Act, reinstatement is the normal rule and deviation from the same can only be justified when there exists exceptional circumstances. Some of the exceptional circumstances which have been laid down by the various Courts are as follows :

- (a) when the employer takes plea of loss of confidence and trust;
- (b) daily rated worker and long lapse of time between retrenchment and reinstatement;
- (c) non-availability of work/post;
- (d) not recruited though any accepted mode of selection, i.e., advertisement employment exchange;
- (e) neither regularized nor any possibility of being regularized;
- (f) nature of job is such that they must have been doing similar work;
- (g) industry is not in a sound financial position for which employer and
- (h) the workman, who is in regular employment is about to reach the superannuation age."

10. अतः प्रकरण के तथ्यों, कार्य की प्रकृति, समस्त परिस्थितियों तथा उक्त न्यायदृष्टांत को ध्यान में रखते हुए प्रार्थी श्रमिक को सेवा में पुनर्स्थापित किए जाने के अनुतोष के बजाय क्षतिपूर्ति स्वरूप एकमुश्त राशि 25,000 रु. अप्रार्थी नियोजक से दिलवाया जाना उपयुक्त समझा जाता है।

परिणामतः भारत सरकार, श्रम मंत्रालय, नई दिल्ली द्वारा सम्मेलित निर्देशविवाद को अधिनिर्णित कर इस प्रकार उत्तरित किया जाता है कि अप्रार्थी नियोजक मार्ईन्स मैनेजर, मै. स्टोन इन्टरनेशनल प्रा. लि. चेचेट तहसील रामगंजमण्डी, जिला कोटा (राज.) द्वारा प्रार्थी श्रमिक अब्दुल रशीद को दिनांक 27-1-2000 से सेवा से पृथक किया जाना उचित एवं वैध नहीं है। प्रकरण के तथ्यों, कार्य की प्रकृति एवं समस्त परिस्थितियों को दृष्टिगत रखते हुए प्रार्थी श्रमिक सेवा में पुनर्स्थापित होने के बजाय अप्रार्थी नियोजक से अनुतोष के रूप में क्षतिपूर्ति स्वरूप एकमुश्त राशि 25,000 रु. प्राप्त करने का अधिकारी घोषित किया जाता है।

गोवर्धन बाढ़दार, न्यायाधीश

नई दिल्ली, 24 सितम्बर, 2007

का.आ. 3053.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इस आई सी हॉस्पिटल कम्प्लेक्स के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम न्यायालय नं. I, नई दिल्ली के पंचाट (संदर्भ आई डी सं. 104/92) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-09-2007 को प्राप्त हुआ था।

[सं. एल-15011/2/1992-आई आर (एम)]

एन.एस. बोरा, डेस्क अधिकारी

New Delhi, the 24th September, 2007

S.O. 3053.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. I.D. No. 104/92) of the Central Government Industrial Tribunal-cum-Labour Court-I, New Delhi now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of ESIC Hospital Complex and their workman, which was received by the Central Government on 24-9-2007.

[No. L-15011/2/1992-IR(M)]

N.S. BORA, Desk Officer

ANNEXURE

BEFORE SHRI SANT SINGH BAL, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, NEW DELHI

I.D. No. 104/92

In the matter of dispute between :

The Hon'ble Secretary, E.S.I.C. M.O. Association, WZ-229, Golden Park, Ram Pura, Delhi-35	... Workman
<i>Versus</i>	

The Director (Medical), ESIC Hospital Complex, Basai Darapur, New Delhi-15	... Management
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APPEARANCES :

Shri P.K. Jain A/R for the workman Shri Bhupesh Narula A/R for Management

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-15011/2/92-I.R. (Misc.) dated 19-11-92 has referred the following Industrial Dispute to this Tribunal for adjudication :—

“Whether the action of the management of ESIC in not paying ESI allowance to all the Doctors is justified? If not to what relief the Doctors (workmen) are entitled to ?”

2. Brief facts of this case as culled from record are that the E.S.I.C. Medical Officers Association (Regd.)— claimants have preferred the claim against E.S.I.C. Respondent No. 1 and Director (Medical) Delhi Respondent No. 2 stating that ESI allowance is being paid to the other doctors are not being paid the said allowance for which the doctors have reasonable cause and the issue was raised collectively by association of doctors but could not be settled amicably ultimately resulting in the above reference. Accordingly the non-payment of such allowance of the claimants amounts to discrimination and is illegal and is contrary to the principle of equal pay for equal work as laid down by the Apex Court. The claimant claims demand of the ESI allowance of Rs. 200/- PM as given to other doctors alongwith arrears and interest @ 24%.

3. The claim was contested by the Respondent by raising preliminary objection that they are not workmen that the claimants are not workmen under the I.D. Act as they are engaged in professional and intellectual activities of treating patients, they are therefore, not workmen under the I.D. Act.

(2) Medical Officers are entitled to pay allowances and other conditions of services applicable to similar other doctors in analogous posts in the Central Health Service. There is no provisions of ESIC allowance 3. The Statutory provisions of the ESI Act and the regulations framed thereunder for employment of doctors by the ESI Corporation do not provide for ESI Allowance.

4. On merits filing of claim and raising the reference are not denied. However, it is stated that the doctors appointed on or after 20-5-74 fall into a different category being recruited as per statutory regulations framed under the ESI Act.

5. The following question need determination in this case :

“Whether the Doctors claimants are the workmen ?”

“Whether they are entitled to the ESIC allowance of Rs. 200/- and from which date?”

6. To decide question No. 1 it is pertinent to have a look on the definition of workman given in Section 2(s) which defines the workman as under :

(s) “workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute includes any such person who has been dismissed, discharged or retrenched in connection with or as a consequence of, that dispute, or whose dismissal,

discharge or retrenchment has led to that dispute, but does not include any such person

- (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or
- (ii) who is employed in the police service or as an officer or other employee of a prison; or
- (iii) who is employed mainly in a managerial or administrative capacity; or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.

7. Here the claimants are all doctors discharging functions of as Medical Officers i.e. treating the patients etc. in ESI Dispensaries/Hospitals. They are not subject to the provisions of Air Force Act or Army Act or Navy Act. They cannot be termed as employed in Police Services or an officer and other employees of the present prison. There is no material to show that these doctors are employed in managerial or administrative capacity or in professional capacity. They can be aptly defined as workmen described as a skilled workman doing job of skilled nature. Coming to the question whether the doctors claimants herein on whose behalf claim is made working as medical officers of ESI are entitled to ESI allowance to the tune of Rs. 200/- PM as claimed. It is admitted in para No. 5 of the W.S. that doctors appointed prior to May, 74 were being paid ESI allowance but doctors (Medical Officers) herein have been appointed thereafter have been denied this allowance on the ground that the ESI Medical Officers cannot be termed as professional being employees of the Respondent. They are basically employees of the Respondent. Their engagement in intellectual activities of treating patient cannot in any way take them out of the definition of workmen. They are doing intellectual activities of treating the patients and covered under definition of workman. To my mind they are workmen and they are accordingly held as workmen. It is an admitted fact that few doctors before 25-5-74 were paid ESI allowance but the doctors appointed on or after 25-5-74 were denied the same as they fall in different category being recruited as per statutory regulations framed under the ESI Act. It cannot be denied that the doctors (Medical Officers) appointed/recruited prior to May, 74 and recruited thereafter are discharging the same functions of treating patients giving prescription etc. their qualifications are same they are discharging functions of the same nature. There is no difference in their functions. Giving ESI allowance to the doctors appointed prior to may, 74 @ Rs. 200/- PM and denying the said allowance to the doctors appointed or recruited

thereafter under the same employer amounts to giving discriminatory treatment to the doctors who are doing the same job performing similar functions/duties. This is a case of clear denial of ESI allowance to the medical officers/doctors. This action of denial of ESI allowance to the medical officers/doctors recruited after 1974 is not justified being discriminatory in nature.

Relief

8. Claimant has claimed ESI allowance @ Rs. 200/- from the date of their appointment. The reference has been made/raised in 1992. There is no explanation to the effect that the workmen preferred this claim after unexplained long delay though under the I.D. Act there is no prescribed limitation. However, with undue delay the dispute has been raised by way of reference in the year 1992. Even the Respondent has approved ESI allowance to the doctors under State Government E.S.I. allowance vide letter dated 19-9-89. Respondent has preferred payment of ESI allowance @ Rs. 200/- PM to its medical officers w.e.f. the date of their appointment vide its letter dated 19-9-89. It would be appropriate if the claimants on whose behalf present dispute is raised are granted ESI allowance @ Rs. 200/- w.e.f. 19-9-89. Award is passed accordingly. It is directed that all the medical officers be given ESI allowance @ Rs. 200/- PM w.e.f. 1-9-89.

Dated : 19-9-07 SANT SINGH BAL, Presiding Officer

नई दिल्ली, 24 सितम्बर, 2007

का.आ. 3054.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उड़ीसा माइनिंग कॉर्पोरेशन लिमिटेड के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/त्रिम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ आई डी सं. 236/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-09-2007 को प्राप्त हुआ था।

[सं. एल-29011/55/1998-आई आर (एम)]

एन.एस. बोरा, डेस्क अधिकारी

New Delhi, the 24th September, 2007

S.O. 3054.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. I.D. No. 236/2001) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Orissa Mining Corporation Ltd. and their workman, which was received by the Central Government on 24-9-2007.

[No. L-29011/55/1998-IK(M)]
N.S. BORA, Desk Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL-CUM-LABOUR COURT,
BHUBANESWAR****PRESENT**

Shri N.K.R. Mohapatra, Presiding Officer, C.G.I.T.-cum-Labour Court, Bhubaneswar.

Tr. Industrial dispute Case No. 236/2001

Date of Passing Award—3rd September, 2007

BETWEEN

The Management of,
M/s. Orissa Mining Corporation Ltd.,
Bhubaneswar-751 001 ... 1st Party-Management

AND

Their Workman,
represented through the President,
Orissa Mining Workers Federation,
OMC House, Bhubaneswar-751 001 ... 2nd Party-Federation

APPEARANCES

M/s. J.K. Tripathy & Associates, Advocate : For the 1st Party-Management

Shri A.K. Samal, General Secretary : For the 2nd Party-Federation

AWARD

The Government of India in the Ministry of Labour, in exercise of powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29011/55/98/IR (M), dated 15/17-03-1999.

“Whether the demand of the Orissa Mining Workers Federation for regularization of services of ad hoc/daily wages employees/workers who have completed 5 years continuous service (list enclosed) with all benefits at par with the regular employees of the Management of Orissa Mining Corporation Ltd., with back wages as per agreement is justified? If so, what relief the workmen are entitled to?”

2. After filing of necessary claim petition by the Federation and written statement thereto by the Management necessary issues were taken up and trial was resumed and closed. While the matter was pending for argument the Federation filed a petition on 25-7-2007 to pass necessary award in the light of decision already taken by the Management and the Federation in their joint meeting held on 15-5-2007.

3. Referring to the terms of reference as quoted above it is conceded by both the parties that the same

suffers from patent defects for there being no mention of the date of Agreement on the basis of which the reference has been sought to be answered. It is submitted by the parties that time and again several agreements have been made on the self same subject but each such agreements are in variance on question of regularization of ad hoc, daily wages, N.P. Employees, Accounts Trainees etc. The reference being in respect of daily rated workers, the parties being alive of the present negative legal pronouncement on regularization of such employees contended that when the Management and Federation having come closure in a joint meeting on 15-5-2007 have decided to give some kind of permanent status to these employees, that itself be taken to be the plausible answer to the reference and an award be passed accordingly.

4. The minutes of the discussion held between the Management and Federation on 15-5-2007 shows that while giving a serious thought to the problem of regularization of ad hoc/daily wage workers the Management has agreed to place a proposal before the Board for its approval and send its decision to the Government for final approval. The Management has further agreed to place another proposal before the Board to consider payment of interim additional financial benefits to these workers pending consideration of its first proposal. Therefore, in these circumstances when the above decision of the Government provides a plausible answer and solution to the reference in question, I find sufficient justification to pass the award on compromise with a direction to the Management to workout its decision in keeping with its assurance to the Federation at an early date.

5. Reference is answered accordingly.

N.K.R. MOHAPATRA, Presiding Officer

नई दिल्ली, 24 सितम्बर, 2007

का.आ. 3055.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार आई.ओ.सी.एल. के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/प्रम्यायालय II, नई दिल्ली के पंचाट (संदर्भ आई.डी. सं.-110/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-9-2007 को प्राप्त हुआ था।

[सं. एल-30012/14/2005-आई आर (एम)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 24th September, 2007

S.O. 3055.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. I.D. No. 110/2005) of the Central Government Industrial Tribunal-cum-Labour Court II, New Delhi now as shown in the Annexure, in the Industrial Dispute between the employers

in relation of the management IOCL and their workman, which was received by the Central Government on 24-9-2007.

[No. L-30012/14/2005-IR (M)]
N. S. BORA, Desk Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOURCOURT-II, NEW DELHI

R. N. Rai, Presiding Officer

L.D. No. 110/2005

PRESENT

Sh. M.S. Chandila —I Party
Sh. Rakesh Sawhney —II Party

In the matter of :

Shri Billa Singh,
S/o Shri Ram Pal,
R/o Vill. Baroli, Distt : Faridabad,
Haryana.

Versus

1. The Chairman,
IOCL,
Scope Complex,
Corporate Office, Core-2,
7, Institutional Area,
Lodhi Road, New Delhi-110 003.
2. The Director,
Research & Development Centre,
IOCL, Sector-13,
Faridabad-121 007
Haryana.

AWARD

The Ministry of Labour by its letter No. L-30012/14/2005-IR (M) Central Government Dt. 6-9-2005 has referred the following point for adjudication.

The point runs as hereunder :

"Whether any employer-employee relationship exists between the management of Indian Oil Corporation Limited, Faridabad and Shri Billa Singh ? If yes, whether the action of the management of Indian Oil Corporation Limited, Faridabad in terminating the services of Shri Billa Singh S/o Shri Ram Pal Helper w.e.f. 30-9-2000 is just and legal ? If not, to what relief the workman is entitled ?"

The workman applicant has filed claim statement. In the claim statement it has been stated that the applicant was engaged by the respondent on 13th November, 1998 as helper without issuing any appointment letter and the

work assigned to the claimant was of a perennial nature and he was appointed against vacant and regular post with an assurance that the service of the applicant will be permanent and he will not be removed from the said appointment of the respondent. His last drawn salary was Rs. 1906 per month.

That the claimant did his duties diligently, regularly and with utmost punctuality, sincerity and full devotion without any service break and completed more than 240 days in continuous service of the respondent on the post of helper by doing manual job with his own hands in accordance with the well settled provisions of law.

That during this period of his continuous services of more than one year, he had given no chance of complaint and neither any show cause to him was made by his superiors and his work and conduct was found quite satisfactory.

That when he had completed more than one year continuous service, instead of regularizing him they had terminated his services on 30-9-2000 and they have not even bothered to pay the retrenchment benefit at the time of his termination, they also obtained his signature on the plain papers by saying that they will make his full and final settlement, but nothing has been done.

That thus his impugned termination on 30-9-2000 was ex-facie, illegal against the principles of natural justice, equity against the service rules, setting at rest all the provisions of ID Act, 1947 and other labour laws, and contrary to the provisions of Section 25-F of the ID Act, 1947. It is in exercise of administrative powers of notice is an arbitrary manner, with mala fide intention to absorb some other vested interest in his place. Thus, the complainant is entitled to reinstatement with full back wages and continuity of service as "Helper".

That aggrieved from the termination the claimant filed a writ petition in the Hon'ble High Court of Delhi at New Delhi which was decided on 18-3-2004.

That the work assigned to the complainant was of perennial nature. Verbal appointments of casual helper in the Research and Development Centre is fortified by Annexures which are attached herewith as Annexures P-1 to P-6.

The management has filed written statement. In the written statement it has been stated that the reference in the present case of an alleged Industrial Dispute as to whether any employer-employee relationship exists between IOCL and Shri Billa Singh is beyond the scope of Section 2-A of the ID Act, 1947 which does not cover adjudication of the existence of relationship of employer-employee, but only comes into operation where there does not exist any dispute with regard to such relationship, but only with regard to the validity of the propriety of a

discharge, dismissal, retrenchment or termination of service by an undisputed employer of an undisputed employee, and matters arising therefrom.

That in any event in accordance with the case set up by the complainant, the complainant ceased to serve with IOCL in any capacity almost six years ago on 30-9-2000. No reference of any dispute is, therefore, maintainable concerning the relationship of the complaint with IOCL or otherwise, and no dispute under Section 2-A of the ID Act, 1947 is now tenable.

That without prejudice to the foregoing, it is submitted that in any event the proceedings before this Hon'ble Tribunal are wholly misconceived and unsustainable on facts and in law and are liable to be dismissed, for the reasons stated hereunder.

That the alleged dispute referred by the Central Government under section 10 of the ID Act, 1947, for adjudication by this Hon'ble Tribunal is two-fold. In the first instance, whether any employer-employee relationship exists between the management of IOCL, Faridabad and Shri Billa Singh and in the second instance, if such a relationship does exist, whether the action of the management of IOCL in terminating the services of Shri Billa Singh with effect from 20-9-2000 is just and legal. If not, to what relief is the workman entitled to.

That the basic facts that required to be established by the complainant before this Hon'ble Tribunal so as to be entitled to any relief are three-fold. Firstly, that an employer-employee relationship existed between the management and the complainant. Secondly the services of the complainant was terminated by the management with effect from 30-9-2000 and finally that the termination was neither just or legal.

That with respect to the first question as to the existence of relationship of employer-employee, the complainant has alleged in Paras 1 and 2 of his statement of claim :

- (i) that he was orally engaged by the management on 13th November, 1998 as a Helper without issuing any appointment letter.
- (ii) that the work assigned to the complainant was of a perennial nature.
- (iii) that he was appointed against a vacant and regular post with the assurance that his services will be permanent; and
- (iv) that he had completed more than 240 days in continuous service.

That the complainant has intentionally and with mala fide intent, suppressed in his statement of claim, his pleadings before the Hon'ble High Court in the WP filed by

him being Civil Writ Petition No. 5848 of 2000 to the effect that :

- (i) he was employed as a casual labour since 13th November, 1998 through Shri Madan Pal, Labour Contractor;
- (ii) he had completed 240 days of service and as per judgement of the Hon'ble Supreme Court in the case of Haryana Electricity Board Vs. Suresh & Ors., he is eligible for regularization of his services under the management;
- (iii) the job in question is perennial in nature and employment of contract labour for perennial jobs is prohibited under the CLRA Act, 1970;
- (iv) as per the Supreme Court judgement, when the conditions of work, which is of perennial nature, and as envisaged in sub-section (2) of Section 10 of the said Act are satisfied, the continuance of contract labour stands prohibited and abolished.

That apart from suppressing the aforesaid material facts, which clearly disclose the contradictory stands taken by the complainant in the Hon'ble High Court and before this Hon'ble Tribunal, the complainant has neither referred to nor disclosed that he was engaged, appointed, employed and paid by M/s. Madan Traders, a contractor appointment to provide certain maintenance service at the R & D Centre of IOCL at Faridabad, nor has referred to or disclosed the following facts and documents which strike at the very root of the purported Industrial Dispute referred for adjudication of this Hon'ble Tribunal.

The documents annexed as Annexures P-1 to P-5 to the statement of claim at best, confirm that on certain dates, the complainant worked overtime for which a confirmation was issued by the R & D Centre to enable Shri Billa Singh to claim overtime from his employer, M/s. Madan Traders.

To enlarge upon the submissions made above, it is further submitted that during 1998-99 the Research and Development Centre at IOC at Faridabad undertook a large scale expansion of upgradation of facilities and for undertaking hi-tech research projects for which substantial equipment and machinery had to be unloaded, moved, opened, cleaned and setup, which involved the manual labour.

That during 1998 the respondent Corporation invited tenders from contractors for providing specialized services in this connection on the terms and conditions set out in the tender documents annexed herewith as Annexure A. M/s. Madan Traders who quoted a lump sum price of Rs. 11,61,915 for providing the said services for a period of one year was found to be the lowest eligible bidder and accordingly the contract was awarded to them by Corporation's letter No. R&D : P7A : 1044 dated September

28, 1998 (the said letter annexed herewith a Annexure B. It is pertinent to mention here that R&D Centre of IOC is registered as a principle employer under the CLRA Act, 1970 while M/s. Madan Traders is registered as a contractor under the said Act.

Clause 5.18 of Special Conditions of contract to the tender document relating to the appointment of contractor provided that the workmen employed by the tenders shall have no relation whatsoever with R & D Centre, IOCL. Since the projects were incomplete during the contract term of one year, the said contract with the contractor was extended for a period of one year up to 30th September, 2000 on the same terms and conditions by the Corporation's letter No. R&D : P7A : 1044 dated September 30, 1999 annexed herewith Annexure C. Since the jobs for which the contract was awarded to M/s. Madan Traders were completed by September 30, 2000, the contract was not renewed thereafter and the same expired by efflux of time.

That it is probable that the complainant was employed by the contractor, M/s. Madan Traders in the performance of the said contract and that his services were either terminated by the contractor or he was deployed elsewhere on the expiry of the said contract. In respect of the same, the complainant filed a writ petition No. 5848 of 2000 before the Delhi High Court claiming regularization and the same was dismissed.

The workman applicant has filed rejoinder. In the rejoinder he has reiterated the averments of his claim statement and has denied most of the paras of the written statement. The management has also denied most of the paras of the claim statement.

Evidence of both the parties has been taken.

Heard argument from both the sides and perused the papers on the record.

It was submitted from the side of the workman applicant that the respondent/management engaged him on 13-11-1998 as helper without issuing any appointment letter. The work was of perennial nature. The workman was appointed against permanent vacancy. That no appointment letter was given. He completed 240 days continuous service on the post of helper. The management terminated his services illegally on 30-9-2000 without payment of any retrenchment compensation and one month's pay in lieu of notice. The termination is illegal. The management has not complied with the provisions of Section 25 F of the ID Act, 1947.

It was submitted from the side of the management that there is no employer-employee relationship between the respondent/management and the workman. The workman was engaged through M/s. Madan Traders, the contractor. The workman in CW No. 5848 of 2000 has taken the plea that he was engaged through M/s. Madan Traders

and in the claim before this Court he has taken the plea that he was directly engaged by the management and he has completed 240 days service.

It has been observed by the Hon'ble Delhi High Court on 18-3-2004 in the above said petition as under :

"The petitioner, a contract labour, was employed as a helper by the present petition; he seeks regularization of his services.

Ld. Counsel for the parties are agreed that in view of the decision of the Supreme Court in Steel Authority of India Limited Vs. National Union of Water Front Workers' JT 2001 (7) Supreme court 268, the petitioner is at liberty to approach the industrial adjudicator for appropriate relief."

It becomes quite obvious from perusal of the observation of the Hon'ble Delhi High Court that the workman has taken the plea before the Hon'ble Delhi High Court of contract labour and he has sought regularization. In the present claim statement filed in this Court the workman has not mentioned even a single word regarding engagement as a contract labour. He has taken the plea that he was directly appointed by the management against a permanent post and he has performed 240 days work. The workman has filed B-3 to B-5, the overtime chart of casual labours from 1-5-2000 to 14-9-2000.

It was submitted from the side of the workman that he was a casual labour engaged by the management that is why overtime payment has been made by the management.

The overtime payment is for the month of May, 2000, June, 2000, July, 2000 and September, 2000. The workman has not filed any other paper to show his direct engagement with the management. These papers only establish that the workman performed overtime duties in the month of May, June, July and September, 2000 only in four (4) months. The workman has to prove by cogent documentary evidence that he worked with the management for 240 days in the year 1998, 1999 and 2000. He was engaged in November, 1998, so there is no question of performing 240 days work in 1998. He may have worked for 240 days in the year 1999 and 2000 but he has to establish that he was directly engaged by the management. He has not filed any document to prove that he worked directly under the management in the year 1998, 1999 and 2000 except the overtime chart of May, June, July and September, 2000.

It was submitted from the side of the management that the contractor got overtime chart prepared for payment to the workman.

The workman has not filed any proof that overtime payment to him has been made by the management. He has not also filed any proof that the management has ever made payment of any amount by way of wages to him.

The management has filed photocopies documents from B-172 to B-186. The workman has put his signatures on these documents. These documents prove that the workman was engaged through M/s. Madan Traders and he marked his attendance on the register of M/s. Madan Traders.

The management has filed documents to establish that M/s. Madan Traders was assigned contract for engagement of helpers and the workman may have been engaged by M/s. Madan Traders. These photocopies have not been denied by the workman. These documents go a long way to prove that the workman was engaged through M/s. Madan Traders.

It is settled law that if contradictory pleas are taken both the pleas cannot be established. In the Hon'ble Delhi High Court the workman filed writ for regularization on the ground of contract worker and in the present claim he has claimed direct engagement.

The workman has not proved that he was directly engaged by the management. He has also not proved that he has worked for 240 days as a casual labour engaged by the management.

The workman was engaged through the contractor, M/s. Madan Traders as he has taken this plea in the WP and he has to prove that he worked under the control and supervision of the management.

The workman has not filed any document to prove that he was under the direct control and supervision of the management. He has not proved that payment to him was made by the management. The workman has not proved that he worked under the control and supervision of the management and payment to him was made by the management.

It appears that the workman was engaged for sometime through M/s. Madan Traders and when the contract period was over the work of the workman also came to an end. He has filed WP in the Hon'ble Delhi High Court and he has taken false plea in the present case.

Thus, it stands established that the workman was initially engaged by M/s. Madan Traders as helper in view of the contract awarded by the management to M/s. Madan Traders at the relevant time. The workman was not directly engaged by the management. There is no employer-employee relationship between the management and the workman. The workman has failed to prove that he was directly engaged by the management and he worked continuously for 240 days.

The reference is replied thus :

No employer-employee relationship exists between the management of Indian Oil Corporation Limited, Faridabad and Shri Billa Singh. The services of the

workman was not terminated by the management w.e.f. 30-9-2000. The workman applicant is not entitled to get any relief as prayed for.

The award is given accordingly.

Date : 10-9-2007

R. N. RAI, Presiding Officer

नई दिल्ली, 24 सितम्बर, 2007

का.आ. 3056.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मुम्बई पोर्ट ट्रस्ट के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकारण/प्रम न्यायालय-II, मुम्बई के पंचाट (संदर्भ संख्या सी जी आई टी-2/44/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-09-2007 को प्राप्त हुआ था।

[सं. एल-31012/4/1997-आई आर (एम.)]

एन. एस. बोरा, डेस्क अधिकारी

New Delhi, the 24th September, 2007

S.O. 3056.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. CGIT-2/44/2001) of the Central Government Industrial Tribunal/Labour Court-II, Mumbai now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Mumbai Port Trust and their workman, which was received by the Central Government on 24-09-2007.

[No. L-31012/4/1997-IR(M)
N. S. BORA, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II AT MUMBAI

PRESENT:

A. A. Lad, Presiding Officer

Reference No. CGIT-2/44 of 2001

Employers in relation to the Management of :

The Chairman,
Mumbai Port Trust,
Administrative Offices Bldg.,
Shoorji Vallabhdas Marg,
Mumbai-400 038 ... First Party

AND

Their Workman,

The Secretary,
Bombay Port Trust Employees' Union,
Port Trust, Kamgar Sadan, Nawab Tank Road,
Mazgaon, Mumbai-400 010. ... Second Party

APPEARANCE

For the Employer : Mr. Umesh Nabar, Advocate

For the Workman : Mrs. Shobhana Gopal, Advocate

Date of reserving Award : 28th March, 2007

Date of passing of Award I : 9th August, 2007

AWARD

The matrix of the facts as culled out from the proceedings are as under :

The reference is sent to this Tribunal by the Under Secretary of Central Government, The Government of India, Ministry of Labour by its Order No. L-31012/4/97-IR(M) dated 11th April, 2001 in exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 to decide :

"Whether the industrial dispute raised by the Secretary, Mumbai Port Trust Employees Union against the Management of Mumbai Port Trust over the demand for correction of the date of birth of Shri Tukaram R. Katkar, Tindel justified ? If so, to what relief the workman is entitled to ?"

2. To support the subject matter involved in the reference 2nd Party filed Statement of Claim at Exhibit 6 stating and contending that in the year 1973 he joined services of Ex.- Bombay Dock Labour Board Labourer. Initially he was taken as a temporary employee then in the year 1977 he was confirmed and he was informed accordingly. He even submitted all documents including proof about his date of birth by submitting extract dated 22-8-1977 from the Register of Birth and Death Certificate.

3. According to him birth date recorded by the 1st Party as his birth date 17-2-1942 is not correct one. In fact his correct birth date is 17-2-1952. He noted that when he applied for housing loan from Life Insurance Corporation of India. He collected the said birth date extract and addressed a letter to the 1st Party calling upon them to rectify that birth date as 17th February, 1952. However, first Party did not consider it and refused to change the birth date from 17-2-1942 to 17-2-1954. Even he wrote letter dated 15th June, 1990 bringing into the notice of Secretary of ex-BDLB that, his date of birth was wrongly noted and requested him to make necessary changes. In the year 1993 the medical registration, ration card was issued by Ex-BDLB wherein his date of birth was shown as 17-2-1942. Thereafter Ex-BDLB was superseded by Mumbai Port Trust. In fact Mumbai Port Trust noted the birth date of the 2nd Party as 17th February, 1942 which was also intimated to his next employer. Though he brought that into the notice of the 1st Party but that was not considered by the 1st Party and by letter dated 17-2-2000 1st Party informed the concerned Workman that, he is due for retirement on 1st April, 2000. According to him, he cannot

be made to retire on 1st April, 2000 which is premature retirement and he cannot be prevented to work thereafter. He disputed the same and with the help of his Advocate he addressed a Letter to the 1st Party calling them it to correct his date of birth and withdraw the retirement notice. The dispute went into the conciliation and ended in failure and failure report was submitted on which the subject matter has come here for adjudication. He submitted that, his birth date be treated as 17th February, 1952 and request the 1st Party to permit him to take benefit of it and work beyond 2000 the date of superanuation intimated to the 2nd Party.

4. This prayer is disputed by the 1st Party by filing reply at Exhibit 7 stating and contending that, on the eve of retirement 2nd Party cannot raise dispute about his birth date. In fact after collecting date from the employees, information was maintained by the employers. It was recorded in the service record. Accordingly he was treated as an employee of the 1st Party noting his birth date as 17th February, 1942. He cannot be permitted to work beyond 1st April, 2000. The request of the 2nd Party about alleged birth date is not just and proper. It is not explained as to why he was late in informing the 1st Party. On number of occasions 1st Party tried to upgrade the service records of the employees, first in the year 1983. Even on the said occasion the 2nd Party did not took note of it and tried to bring his case comparing the birth date as per his date. Even he did not made any representation till December, 1983. Since 2nd Party did not avail the opportunity to correct his birth date as tried to claim it here as per his request, now he is estopped from doing so. His birth date was informed to him as recorded by the employers. In 1995 an application was preferred by the 2nd Party to correct his birth date without any support. He relied on the affidavit which is not reliable evidence. So it is submitted that, the prayer made by the 2nd Party to correct his birth date from 17-2-1942 to 17-2-1952 cannot be considered.

5. In view of the above pleadings my Ld. Predecessor framed the issues at Exhibit 11 which I answer as follows :

Issues	Findings
1. Whether it is proved that Workman Katekar's date of birth is 17-2-52 and Not 17-2-42 ?	Yes
2. Does Management prove that Workman did not avail the opportunity to change in record so called correct date of birth ?	Does not arise
3. Whether the demand of the union to correct the date of birth of Katekar to 17-2-52 from 17-2-42 is justified ?	Yes

4. What relief Katekar is entitled to ?
 2nd Party's birth date be treated as 17-2-52 and is entitled to get benefits of retirement on that basis.

REASONS:

Issue No. 1 :

6. By this Reference dispute of 2nd Party regarding his birth date is referred for adjudication at the instance of the directions given by Hon'ble High Court while disposing of the Writ Petition No. 713 of 2000 directing Central Government to refer the birth date dispute of the 2nd Party concerned Workman to the Central Government Industrial Tribunal for adjudication. In pursuance to that dispute is forwarded by the Central Government, Labour Ministry as referred above. To support that, 2nd Party placed reliance on his evidence recorded in the form of an affidavit in lieu of the examination-in-chief at Exhibit 14 and 1st Party by filing the affidavit at Exhibit 17 of their Officer Mr. Ramesh S. Ghadwale in lieu of the examination-in-chief. The 2nd Party Workman in the affidavit narrated all facts as stated above to correct his birth date. In the cross he admits that he did not file birth certificate in 1977 in the office. He also admits that he does not possess any document in support in that respect. Even he is unable to state whether he approached the 1st Party in 1977 for correction of his birth date in response to the offer given by the 1st Party to correct the birth date of the employees. Whereas first Party in affidavit at Exhibit 17 made out his case as stated above and in the cross he admits that at the time of registration of the employees no birth certificate was required nor needed. The personal file is maintained in the office. He admits that at page 1 of Exhibit 11 there is overwriting in figure "42". He is unable to state whether birth date recorded in the office was intimated to the Workman. He is also unable to state that who has filled in the form filed at page 9 of Exhibit 11. He admits that 2nd Party has put thumb impression since he cannot sign. He admits that the employees of Ex-BDLB were absorbed by Mumbai Port Trust and thereafter its service rules were made applicable. He is unable to state, whether documents produced at Page of Exhibit 10 was issued by its office.

7. On the basis of this 2nd Party submitted written arguments by Exhibit 27 and 1st party submitted its Synopsis of oral arguments at Exhibit 29 with 5 citations.

8. Document referred above, page 1 Exhibit 11, is the important piece of evidence which is maintained by the 1st Party. As admitted by witness of 1st Party Exhibit 11(1) is registration form of the employee. Here we find, there is scoring in the figure "42". Besides at the bottom there is thumb impression of the 2nd Party. Record shows that in

the year 1995 he applied for change of birth date on the basis of the documents which he possessed and that fact is admitted by the 1st Party, even Xerox copy of the said extract is produced. The original of which is with the 2nd Party. Besides in the medical form the retirement year of the 2nd Party is shown in 61.2(g) of page 2 as "2012". As argued by the 2nd Party's Advocate, if we presume 2nd Party's birth date is 17-2-42, then retirement date as shown in page 2(g) of Exhibit 10, reveals that he will work upto 70 years which cannot be possible. Against that if we read the case of the 2nd Party of the birth date claimed by the 2nd Party as 17-2-1952, he can work upto 2012 as recorded by the 1st Party which comes at the age of 60 and not at the age of 70. So record of the 1st Party itself reveals that birth date of the 2nd Party cannot be 17-2-1942 as noted and relied upon by 1st Party mentioning retirement date "2012" and cannot permit 2nd Party to work upto 70 years. On the contrary retirement date recorded by the 1st Party '2012' if compared with the birth date claimed by the 2nd Party as 17-2-1952 reveals that he will retire at the age of 60 in 2012. Moreover if the birth date recorded in the medical registration form is taken into consideration at the time of his recruitment which cannot be, since on the date of recruitment he cannot be of 37 years. Moreover as stated above, the extract of the birth certificate which has been given by the concerned authority shows, date of birth of 2nd Party as 17th February, 1952. Against that, there is no evidence brought by the 1st Party to show that his birth date should be treated as 17-2-1942. Except the record maintained by the 1st Party no evidence is there with them to support its claim. Against that the 2nd Party has number of evidences like birth extract, record maintained by the 1st Party of his retirement and medical registration card where he is shown 37 years at the time of his recruitment and 70 at the time of retirement age.

9. Number of case laws are produced along with the written submissions. 2nd Party placed reliance the Xerox copy of the citation published in 2002(95) FLR page 556 (Ardesir B. Cersetji & Sons Vs. Abdulla Fakir Jambarkar & Anr.) where our Hon'ble High Court observed that one cannot accept the date of birth other than mentioned in the School Leaving Certificate. Here no school leaving certificate is there but birth date certificate is produced. It is not the case of the 1st Party that the 2nd Party should have gone to the extent and has enrolled in the school. In another citation published in 2000 III CLR page 125 (Sitaram K. Jawale Vs. MHADA & Ors.) wherein our Hon'ble High Court observed that when there are different birth dates which create confusion, the claim made by MHADA in rejecting the prayer was wholly arbitrary, is not just and proper. Another citation published in 2000 II CLR page 65 (Bibekananda Barua Vs. Regional Director of Food Corporation & Ors.) where Hon'ble Calcutta High Court observed that when there are different birth dates, in that case, test of bona fide goes in favour of the Petitioner. Even Apex Court while deciding the case of State of M.P.

& Ors. Vs. Mohanlal Sharma, published in 2003 I CLR page 428 observed that birth date recorded in SSC Certificate carries greater evidential value than any other evidence. Against that a number of citations are submitted by the 1st Party. Citation published in 1999 I CLR page 36 (Steel Authority of India Ltd. & Ors. Vs. B. B. Sharma) where it is observed that when claimant did not raise any dispute about his birth date for 19 years and raises after 12 years, he cannot raise it. In that case dispute was raised but here dispute is raised by the 2nd Party and as such the ratio laid down in that case cannot be made applicable to this case. Another citation referred by the 1st Party, published in 1997(4) SC page 647 (Union of India Vs. C. Ramaswami) where Apex Court observed that such a dispute regarding birth date should be decided as per the provisions and not relying on the substituted provisions. I fail to understand in what way this ratio helps the 1st Party on which they want to rely. Another citation referred by 1st Party published in 96(72) FLR page 834 (SC) (Union of India Vs. Ram Sua Sharma) where Apex Court observed that the Court or the Tribunal cannot entertain the claim for correction in the date of birth raised at a belated stage. Another citation published 1995(71) FLR page 282 (Burn Standard Co. Ltd. Vs. Dinabandhu Majumdar) where it is observed that employee who claims employment should submit his correct date of birth. But here employee in our case is uneducated employee whereas employee involved in the above referred (supra) case was having different status than employee involved in the present case. Views expressed by Apex Court published in 1994 (69) FLR page 740 SC State of Tamilnadu Vs. T. V. Venugopalan is also on different footing and does not help 1st Party to come in the way of the 2nd Party. Another citation published in 1993 II CLR page 860 (Secretary & Commissioner, Home Department & Ors. Vs. R. Kirubakaran) where it is observed that correction of date of birth on the basis of a report of the Revenue officer at a belated stage observed not permissible.

9. So if we consider all this, coupled with case made out by both and evidence lead, I conclude that correct date of birth is 17th February, 1952 and not 17th February, 1942 and conclude that the 2nd Party is entitled to get benefits of it. So I answer these issues to that effect and passing the following order :

ORDER

- (a) Reference is allowed;
- (b) 1st Party is directed to treat 2nd Party Shri Katekar as its employee till he attains age of superannuation in 2012 treating his date of birth from 17th February, 1952 and give him consequential benefits;
- (c) No order as to its costs.

Mumbai,
9th August, 2007

A. A. LAD, Presiding Officer

नई दिल्ली, 24 सितम्बर, 2007

का. आ. 3057.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार उड़ीसा माईनिंग कॉर्पोरेशन लिमिटेड के प्रबंधतात्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/त्रिम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या आई डी सं. 237/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 24-9-2007 को प्राप्त हुआ था।

[सं. एल-29012/171/1998-आई आर (एम)]

एन.एस. बोरा, डेस्क अधिकारी

New Delhi, the 24th September, 2007

S. O. 3057.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. I.D. No. 237/2001) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Orissa Mining Corporation Ltd. and their workmen, which was received by the Central Government on 24-9-2007.

[No. L-29012/171/1998-IR (M)]
N.S. BORA, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

PRESENT

Shri N. K. R. Mohapatra, Presiding Officer,
C.G.I.T.-cum-Labour Court, Bhubaneswar

Tr. Industrial Dispute Case No. 237/2001

Date of passing Award—17th August, 2007

BETWEEN

The Management of the
Chairman-cum-Managing Director,
Orissa Mining Corporation Limited,
Bhubaneswar-751 001

... 1st Party-Management

AND

Their Workman,
represented through
The President,
Orissa Mining Workers Federation,
O. M. C. House,
Bhubaneswar-751 001

... 2nd Party-Union

APPEARANCES

I Party	II Party
M/s. J. K. Tripathy & Associates	: For the 1st Party-Management
None	: For the 2nd Party-Union

AWARD

The Government of India in the Ministry of Labour, in exercise of Powers conferred by Clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) have referred the following dispute for adjudication vide their Order No. L-29012/171/98-IR (M), dated 15/17-3-1999.

“Whether the demand of the Orissa Mining Workers Federation for regularization of service of Smt. Jharana Rani Routrai from 9-2-1993 who has been working since 9-2-1988 as Junior Assistant with all service benefits at par with the regular employees of Orissa Mining Corporation Ltd. in Junior Assistant is justified? If to what relief the workman is entitled?”

2. The shortly started case of the 2nd Party-Federation is that the workman Jharana Rani Routrai joined in J. K. Office of the Management on 9-2-1987 as a Post Diploma Practical Trainee on stipend of Rs. 500 per month. After the training period was over, it is alleged that, the management being satisfied with her performance engaged her further as a Stenographer from 9-2-1988 to 31-8-1991 with a designation of Steno Trainee with a consolidated pay of Rs. 500 per month with artificial breaks. Though the engagement was as a Steno Trainee she was asked to work as a Junior Clerk to prepare Sales Billing, Sales Accounting etc. other Sales related jobs. Regarding her performance she was also issued with necessary certificates by the Junior Administrative Officer of the Management posted at J. K. Road Office that her work as Junior Assistant was satisfactory. Thereafter, the Management having withdrawn her designation of Steno Trainee assigned her with a new designation “semi skilled Mazdoor/skilled Mazdoor” on a daily wage of Rs. 22.85 with special allowance as applicable from time to time. She was also provided with a quarters which is normally allotted to a regular employee. Even after designating her differently she was asked to work as before on jobs of a Junior Assistant. It is alleged by the Federation that even though the Management kept engaged the workman in the above manner for about 13 years, it did not think of regularizing her service for which a dispute was raised by the Federation in 1998 culminating the same in the present reference.

3. Besides challenging the various stands taken by the Federation the Management in its counter has questioned the *locus standi* of the Federation in raising the dispute. According to the management though the

Federation was registered in 1991 it remained activity-less and dormant for there was no elected office bearers to keep the Federation functional and therefore its raising of the dispute before the A. L. C. (C) was without jurisdiction etc. It is further contended that the Union of which the workman was a member was never affiliated to the Federation in question and as such the reference is not maintainable for lack of power of the Federation to espouse the case of the workman.

4. As regards the case of the workman it is further contended by the Management that on the request of an institution called “Woman’s Polytechnic” the workman was entertained for her training as a Post Diploma Practical Trainee (PDPT) in its Regional Office at J. K. Road for a period of one year from 9-2-1987 with a stipend of Rs. 320 per month which was subsequently enhanced to Rs. 500 per month. After the above stipendiary period was over the workman requested for her further Training and as such she was engaged as a Steno Trainee on a monthly stipend of Rs. 500 for a period of 89 days from 9-2-1988 to 31-8-1991. Thereafter on consideration of another representation of the workman she was further engaged in some other capacity as semi-skilled Mazdoor with effect from 6-1-1992 for a period of 44 days extended from time to time on a remuneration of Rs. 19.05 per day on voucher payment as per the rate fixed under Minimum Wages Act. It is contended by the Management that the above engagement of the workman as a Steno Trainee from 9-2-1988 to 31-8-1991 and her subsequent engagement at a gap of 5 months as a semi-skilled Mazdoor being at her own request and such engagement not being in accordance with the recruitment rules of the Management, the workman is not entitled to claim automatic regularization in the post of Junior Assistant or to claim the pay and other benefits of a regular employee. It is further averred that as per one settlement dated 15-1-1976 the principles of regularization of service of the employees like the workman having already been settled, the case of the workman cannot be singled out and decided differently. It is further stated that the Management in order to mitigate the hardship of such personnels it has already given a proposal to the State Government (the Management being a state undertaking) to group the workman and similar other workers under a category of Non-Permanent Employees and hence at this juncture the claim of the workman is neither tenable nor justified.

5. On the basis of above pleadings of both the parties the following two issues were framed :

ISSUES

1. Whether the reference is maintainable ?
2. Whether the demand of the Orissa Mining Workers Federation for regularization of service of Smt. Jharana Rani Routrai from 9-2-1993 who

has been working since 9-2-1988 as Junior Assistant with all service benefits at par with regular employees of Orissa Mining Corporation Ltd., in Junior Assistant is justified ?

3. To what relief the workman is entitled ?

6. Both parties have examined one witness each besides producing several documents relating to engagement of the workman etc. The documents marked as Ext. 1 to Ext.-28 have been produced by the Federation while the documents marked as Ext.-A to Z and Ext.-AA to Ext.-CC have been produced by the Management.

FINDINGS

ISSUE NO. 1

7. Questioning the maintainability of the reference it is alleged by the management that the espousing Federation registered in the year 1991 was in a dormant and defunct state by the time the dispute was raised in 1997 in as much as there was no correspondence of the Federation with the Management nor any return as required under the Trade Union Act was filed before the Statutory Authority. The reply of the Management filed before the Conciliation Officer shows that a similar stand was taken before the A.L.C. (C) challenging the locus standi of the Federation to espouse the case of the workman. But to establish that the Federation in question had every justification to raise the dispute no evidence worth the name has been adduced by the Federation even though under the law it is for the party who contends that the dispute is an "Industrial Dispute" is to establish that fact upon which the jurisdiction of the Tribunal rests. It is contended by the Federation in its claim statement that, several other Trade Unions are affiliated to it but no evidence has been adduced to show that the Federation was authorized by any of these Trade Unions to raise the dispute on behalf of the workman. In his evidence the workman stated that during the relevant period she was a member of Jajpur Road Trade Union and was paying necessary contribution to that Union. When questioned further about the "cash receipts" she says no such receipt the Union used to issue to any of the members. When questioned again about the office bearers of her Union she at first stated to have not known them and then by correcting herself she named two persons. She also could not tell if that Union was affiliated to the Federation in question or not. More surprisingly the claim statement filed by the Federation does not disclose of such a Union being in existence. Therefore, in these premises the action of the Federation in exposing the case of the workman has generated a valid question mark as to its locus standi to do so and whether the dispute raised by it amounts to an "Industrial Dispute" or not.

8. From Ext.-1 it is evidence that the Federation was registered in December 1991 under Indian Trade Union

Act, 1986 Ext.-Z, a letter of Barbil Zone Mining and Transport workers Union shows that when in 1997 one Shri A. K. Jena, General Secretary of O. M. C. Employees Union H. O. intimated the Management about formation of the Federation in question with four other Trade Unions as its affiliated bodies, the above noted Barbil Zone Trade Union raised an objection decrying the attempt of Shri Jena. Claiming itself to be the founder of that Federation it further contended that the Federation in question which was formed at its instance in 1991 was no more functioning. In the letter a request was also made to the Management not to deal with the Federation blindly but to make an enquiry on the letter of Shri A. K. Jena. Ext.-2 a letter of the Management shows that long after the reference the Federation in question has been given recognition in 2001 by the Management, all suggesting about the non-existent state of the Federation by the time the dispute was raised. Therefore, considering the facts already discussed earlier and the above complaint of Barbil Zone Mining & Transport Federation it is held that the Federation was not armed with necessary powers to raise the dispute and as such the dispute so raised does not amount to an Industrial Dispute.

ISSUE NOS. 2 & 3

9. However, considering for a moment that the Federation was totally empowered to raise the dispute and the dispute raised was an Industrial Dispute, let us examine the other probability of the case. It is claimed by the workman that after his post Diploma Practical Training for one year was over on 9-2-1988 the Management suo moto appointed her as a Trainee Stenographer with artificial break and engaged her in clerical work of a Junior Assistant. It is also deposed by the workman that after terminating her from the said post from 31-8-1991 she was further engaged differently as semi-skilled and skilled worker to do the same nature of clerical jobs and that she is still continuing till date as such. The Management on the other hand has deposed that the above engagement was on sympathetic consideration of the representation of the workman, she being a lady in need. The various documents marked as Ext.-3 to 23 and D, H, J, K, L etc. show in fact the workman was made to work in different capacity as stated by her with superficial break and her further claim that she is still continuing till date as a skilled labourer is not denied by the Management. The two un-exhibited personal certificates granted to the workman by the officers of the Management show that she was virtually being unutilized to do the job of a Junior Assistant though designated otherwise.

10. It is the admitted case of both parties that the Management have got a service recruitment rule for regular appointment. There is nothing on record to show that after passing through such recruitment test the workman was engaged after her post Diploma Training period was over

on 9-2-1988. Her engagement as trainee Stenographer after 9-2-88 can therefore be held to have had been made on personal request of the workman as claimed by the Management. Ext.-25 a representation of the workman shows that, when the Management did not like to engage her further as a Trainee Stenographer after 31-8-1991 she made the above representation for her further engagement and in consideration thereof she was again engaged as a semi-skilled worker on daily wage basis and thereafter as a skilled worker on the self same basis after a gap of about four months from 31-8-1991. This further confirms, as claimed by the Management, that her earlier engagement as Steno Trainee must be on a similar representation. It is the settled law that howsoever long a person might have worked as a daily labour or as a casual labour or on a contractual basis but that itself would never entail him/her to claim automatic regularization against a permanent post bypassing the recruitment Rules. The above representation of the workman marked as Ext.-25 shows that she had once appeared in the recruitment test but could not come out successful despite her educational qualification and the experience she had gained in course of her above employment. Therefore, in such circumstances especially considering the nature and mode of her employment she can not be declared entitled to be absorbed automatically against the post of Junior Assistant to the deprivation of other eligible candidates who are likely to come up successful in a recruitment test if held according to the procedure, as has been held by their Lordship in the case of *Uma Devi & Others* reported in 2006-11-LIJ-SC-722.

11. In view of the discussion made above and considering the nature and mode of employment of the workman she can not be declared entitled to be absorbed automatically as Junior Assistant. However when the fact remains that she is still working on daily wage basis, the Management is simply directed to provide her a further opportunity in relaxation of her age to compete with others in the forthcoming recruitment test if she was found still on job till then.

12. Accordingly the reference is answered.

N. K. R. MOHAPATRA, Presiding Officer

List of Witnesses Examined on behalf of the Workman :

Workman Witness No. 1 : Jharanarani Routray.

List of Witnesses Examined on behalf of the Management:

Management Witness No. 1 : Shri Sarat Chandra Sahoo

List of Exhibits on behalf of the 2nd Party-Workman :

Ext.-1 : Copy of certificate of Registration of Orissa Mining Workers Federation.

Ext.-2 : Copy of grant of recognition to Orissa Mining Workers Federation, BBSR.

Ext.-3 : Copy of letter from office of the Principal, Women's Polytechnic, Bhubaneswar, Memo No. 324, dated 5-2-1987.

Ext.-4 : OMC office order Memo No. 2794, dated 7-2-1987.

Ext.-5 : Joining report of Miss Jharanarani Routray, dated 9-2-1987.

Ext.-6 : OMC office order Memo No. 1633, dated 14-2-1987.

Ext.-7 : OMC office order Memo No. 2180, dated 30-1-1988.

Ext.-8 : OMC office order Memo No. 4698, dated 22-2-1988.

Ext.-9 : OMC office order Memo No. 12383, dated 1-6-1988.

Ext.-10 : OMC office order Memo No. 291, dated 4-1-1989.

Ext.-11 : OMC office order Memo No. 19441, dated 21-7-1989.

Ext.-12 : OMC office order Memo No. 30707, dated 4-10-1989.

Ext.-13 : OMC office order Memo No. 32687, dated 4-11-1989.

Ext.-14 : OMC office order Memo No. 13164, dated 8-6-1990.

Ext.-15 : OMC office order Memo No. 14371, dated 27-6-1990.

Ext.-16 : OMC office order Memo No. 9217, dated 17-7-1990.

Ext.-17 : OMC office order Memo No. 22950, dated 26-9-1990.

Ext.-18 : OMC office order Memo No. 8449, dated 28-8-1991.

Ext.-19 : OMC office order Memo No. 14458, dated 4-6-1991.

Ext.-20 : OMC office order Memo No. 34127, dated 19-12-1991.

Ext.-21 : OMC office order Memo No. 231, dated 6-1-1992.

Ext.-22 : OMC office order Memo No. 4838, dated 12-5-1993.

Ext.-23 : J. K. Road, office letter Memo No. 1383, dated 5-2-1991.

Ext.-24 : J. K. Road, office letter No. 1493, dated 7-2-1992.

Ext.-25 : Representation of Jharanarani Routry dated 3-2-1992.

Ext.-26 : J. K. office letter No. 2483, dated 7-3-1987.

Ext-27 : J. K. Road, office letter No. 10048, dated 30-11-1995.

Ext-28 : OMC circular No. 27254/OMC/96 dated 27-9-1996.

List of Exhibits on behalf of the 1st Party-Management :

Ext.-A : Copy of office order dated 6-2-1987.

Ext.-B : Copy of office order dated 22-2-1988.

Ext.-C : Copy of office order dated 23-2-1989.

Ext.-D : Copy of office order dated 19-3-1991.

Ext.-E : Copy of office order dated 3-6-1991.

Ext.-F : Copy of office order dated 19-12-1991.

Ext.-G : Copy of office order dated 6-1-1992.

Ext.-H : Copy of office order dated 3-4-1992.

Ext.-J : Copy of office order dated 27-5-1992.

Ext.-K : Copy of office order dated 29-6-1992.

Ext.-L : Copy of office order dated 28-8-1992.

Ext.-M : Copy of the rejection letter dated 19-12-2000.

Ext.-N : Copy of the rejection letter dated 4-3-2003.

Ext.-P : Copy of letters dated 12-5-1993, 28-9-1998, 16-4-1999, 7-8-1999, 26-9-2000, 14-3-2001 and 23-5-2001.

Ext.-Q : Copy of the office orders dated 20-1-2001, 29-10-2001 and 4-10-2002.

Ext.-R : Copy of the Minutes of Discussions dated 20-4-1998.

Ext.-S : Copy of the note-sheet for allotment of quarters.

Ext.-T : Copy of the extracts of relevant article on the Memorandum of Association.

Ext.-U : Copy of letter dated 22-7-1988.

Ext.-V : Copy of letter dated 27/29-10-1990.

Ext.-W : Copy of letter dated 13-11-1990.

Ext.-X : Copy of letter dated 2-3-1989.

Ext.-Y : Copy of letter dated 17-9-1990.

Ext.-Z : Copy of letter dated 7-6-1997.

Ext.-AA : Copy of letter dated 2-9-1997.

Ext.-BB : Copy of letter dated 8-7-1997.

Ext.-CC : Copy of letter dated 18/22-12-1997.

नई दिल्ली, 25 सितम्बर, 2007

का. आ. 3058.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कुद्रेमुख आयरन और कम्पनी लि., कुद्रेमुख के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक/प्रभ न्यायालय, बंगलौर के पंचाट (संदर्भ संख्या 65/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-9-2007 को प्राप्त हुआ था।

[सं. एल-26012/10/2000-आई आर (एम)]

एन.एस. बोरा, डेर्स्क अधिकारी

New Delhi, the 25th September, 2007

S.O. 3058.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 65/2000) of the Central Government Industrial Tribunal/Labour Court, Bangalore now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the Management of Kudremukh Iron Ore Company Ltd., Kudremukh and their workman, which was received by the Central Government on 25-9-2007.

[No. L-26012/10/2000-IR (M)]
N.S. BORA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
BANGALORE**

Dated : 14th September 2007

PRESENT

Shri A.R. Siddiqui, Presiding Officer

C.R. No. 65/2000

I Party

Shri P. Anandan,
S/o Late Ponnu,
No. 18, Pillayar Koil Street,
Kanzurmotur Gandhi Nagar
Post, Vellur

II Party

The Dy. General Manager (P)
Kudremukh Iron Ore
Company Ltd.,
Kudremukh,
Kudremukh-577142

AWARD

1. The Central Government by exercising the powers conferred by clause (d) of sub-section 2A of Section 10 of the Industrial Disputes Act, 1947 has referred this dispute vide order No. L-26012/10/2000/IR(M) dated 30th August 2000 for adjudication on the following schedule :

SCHEDULE

"Whether the action of the management of Kudremukh Iron Ore Co. Ltd., Kudremukh in discharging the services of Shri P. Anandan,

Operator-cum-Mechanic Grade-1, from 10-11-1999 is justified? If not, to what relief the said workman is entitled?"

2. A chargesheet dated 15-03-1989 is said to be served upon the first party workman and thereupon with due notice of enquiry to him. DE was conducted ex parte and on the basis of the enquiry findings holding him guilty of the charge of misconduct of unauthorised absence, he was discharged from service.

3. The first party by his claim statement before this tribunal challenged the aforesaid order discharging him from service as unjust and illegal, findings of the enquiry officer as suffering from perversity and the proceedings of the enquiry conducted against him as opposed to the principles of natural justice etc. He contended that he was discharging the duties entrusted to him with utmost devotion and sincerity and earned several promotions and increments to his credit and that by order dated 02-05-1998 he was promoted as Operator-cum-Mechanic Grade-1 and had been discharging his duties in the above said post till he was discharged from service by order dated 11-11-1999. His main contention was that he applied for leave w.e.f. 27-11-1998 and was granted leave upto 05-12-1998. He contended that in the meantime he fell sick on 01-12-1998 and was constrained to take treatment with Dr. S. Masilamani, Civil Surgeon and Medical Superintendent, Govt., TB Sanatorium and thereby was prevented from discharging his duties between 01-12-1998 and 10-11-1999. He contended that after the recovery from illness when he reported for duty with the duty report and the medical certificates on 11-11-1999, the management without receiving those papers issued him the letter dated 10-11-1999 discharging him from services. He contended that as per the provisions of Regulation 18(H)(a) of Standing Orders of the management he is eligible to avail the leave for a period of six months after taking treatment through Govt. Medical Officer and therefore, when he had taken the treatment with the Govt. Medical Officer and produced the medical certificates, the order of discharge passed against him is illegal and liable to be set aside. With regard to the proceedings of enquiry he contended that he was neither served with the chargesheet nor was served with any enquiry notice and that enquiry said to have been done against him behind his back is a farce of the enquiry and therefore, liable to be set aside. He contended that he having worked with the management for a period of more than 240 days and more, the order of discharge passed against him amounts to retrenchment and there is no compliance of Section 25F of the ID Act, the action of the management amounts to illegal termination liable to be set aside by this tribunal.

4. The management by its counter statement not disputing the fact that the first party joined its services as a Junior Operator-cum-Mechanic Grade-I on 11-6-1990 or that he was promoted thereafter as contended by him in

his Claim Statement however took up the contention that in the past also the first party had remained absent from duty unauthorisedly from 06-08-1990 to 04-09-1990, 04-02-1991 to 09-02-1991 and from 30-09-1998 to 21-11-1998. The management then contended that the first party had proceeded on leave from 29-11-1998 to 04-12-1998 but on the expiry of the said leave he did not report for duty on 05-12-1998, but sent a telegram dated 05-12-1998 for extension of leave for unspecified period without mentioning the reasons therefor. His request for extension of leave was not considered and he was advised to report for duty by telegram dated 08-12-1998. He was also sent confirmation copy of the telegram by registered post but it returned unserved with an endorsement "left without intimation". He did not give reply to the said telegram despite the receipt of communication from the management. He was once again sent telegram dated 29-12-1998 asking him to report for duty on 04-01-1999 and that came to be returned back with remarks "Door lock and insufficient address". The management then contended that as per the provisions of Regulation 18(H)(a) of the Standing Order one can avail leave for a period of six months after taking treatment from Govt. Medical Officer but in that case the workman must apply in advance for extraordinary leave along with the certificates of the company's Doctor/Govt. Medical Officer and such a leave can be granted if the workman fulfills the procedure for grant of leave as laid down in Clause 22 of the Standing Order. The management contended that the first party has neither sent the leave application with medical certificate during his absence nor followed the procedure as per the above said clause and remained absent unauthorisedly and therefore, he cannot take shelter under the above said provisions of standing orders. The management also contended that notices of enquiry were sent to the first party to the address given by him in his leave application, but they were returned unserved and therefore, enquiry was proceeded against him ex parte and that on the basis of the enquiry findings holding him guilty of the charges, he was rightly and legally discharged from service keeping in view the enquiry findings and the gravity of the misconduct of his remaining absent from duty.

5. Keeping in view the respective contentions of the parties with regard to the validity or otherwise of the enquiry proceedings, this tribunal took up the above said question as a Preliminary issue calling upon the parties to lead evidence at their command.

6. During, the course of the trial of the said issue, the management examined the enquiry officer as MW1 getting marked 9 documents at Ex. M1 to M9 in his examination chief and in his cross examination documents of the management were further marked at Ex. M10 to M18. The management also produced the copy of the standing orders marked at Ex. M19.

7. The first party examined himself by way of rebuttal and after hearing both the learned counsels for the parties, this tribunal by order dated 08-10-2004 recorded a finding on the above said issue to the effect that the enquiry held against the first party was not fair and proper. Thereupon, the matter was posted for fresh evidence of the management on merits of the case i.e. to prove the charges of misconduct leveled against the first party.

8. The management to substantiate the charges of misconduct against the first party examined one Mr. Somesh J, the Senior Manager (Personnel) of the management company and in his further examination chief got marked two documents namely, the letters dated 01-03-1991 and 07-12-1998 at Ex. M20 & 21 respectively. In his affidavit evidence MW2 has just reiterated the various contentions taken by the management in its counter statement and therefore, need not be repeated. In his cross-examination it was elicited that leave applied by the first party from 29-11-1998 to 4-12-1998 has not been sanctioned, the suggestion made to him was denied. He also denied the suggestion that the first party sought for extension of leave from 05-12-1998 onwards by giving the reason of his ill health. He denied the suggestion that he was knowing that the first party was suffering from TB and that he is not a habitual absentee and that his absence was on the ground of ill health.

9. The first party also by way of rebuttal filed his affidavit evidence by reiterating various averments made in his claim statement. In his cross-examination he denied the suggestion that as per Ex. M20 and M21 he was called upon to report for duty. It was elicited that he was suffering from TB when remained absent from duty and was vomiting blood and running with fever. He consulted the Doctors at TB Sanatorium, Vellore and took treatment as an out patient under Dr. Masilamani. He admitted his telegram to the management dated 05-12-1998 is silent about his disease.

10. Now, therefore, as could be seen from the records, after the DE on the basis of which the first party was discharged from service came to be set aside by this tribunal, the management examined the above said witness as MW 2 and relied upon 3 documents at Ex. M19 to M21, in order to substantiate the charge of absenteeism against the first party. Whereas, the first party by way of his rebuttal evidence had produced two documents namely, the medical certificate and a certificate to the effect that he was fit to report for duty marked in his examination chief at Ex. W1 & W2.

11. Learned counsel for the management vehemently argued that in the statement of MW2 recorded by this tribunal after the DE held against the first party was set aside, it has been proved by the management that the first party after having applied leave from 21-11-1998 to 4-12-1998 remained absent from duty unauthorisedly overstaying the leave period and that he failed to report

for duty despite the several reminders made to him and in the result, a domestic enquiry was conducted and on the basis of the enquiry findings, he was discharged from service. Learned counsel submitted that the fact that the first party remained unauthorisedly absent from duty without prior permission or without getting his leave sanctioned is not only proved by the statement of MW2 but also not disputed by the first party himself. In this connection learned counsel took the court through the provisions of Certified Standing Orders of the management company at Clause 18(H) and Clause 22.

12. Whereas, learned counsel for the first party submitted that the first party was entitled for extraordinary leave for about a period of about 18 months as per Clause 18(H)(b) of the said Standing Orders, when he suffered from any disease like TB and gets treatment from Govt. Medical Officer/Civil Surgeon. He submitted that the first party submitted a required medical certificate at Ex. W1 and a certificate declaring him fit to report for duty at Ex. W2 issued by the competent Medical Officer/Civil Surgeon, but instead of being allowed to report for duty he was served with the impugned punishment order on 11-11-1999 on which date he reported for duty. Therefore, according to the learned counsel for the first party the absence of the first party was not unauthorised keeping in view the fact that he wanted to report for duty along with the medical certificate issued by the competent doctor as contemplated under the above said Clause 18(H)(b) of the Standing Orders.

13. After having gone through the records, I find substance in arguments advanced for the management that the first party has remained absent from duty unauthorisedly w.e.f. 5-12-1998 till 11-11-1999, the date on which he wanted to report for duty. The facts undisputed are that the first party sought leave vide his application dated 29-11-1998 until 4-12-1998 and without knowing the fate of his above said application, he sent a telegram dated 5-12-1998 to the management seeking extension of his leave without specifying the period of leave and without giving the reasons for his absence from duty. As per the case of the first party himself, he wanted to report for duty on 11-11-1999 along with the medical certificate and the certificate declaring him fit to report for duty but to his surprise, he was served with the punishment order of discharge from his services. In order to justify his absence from duty the first party takes shelter under the aforesaid provisions of Clause 18(H)(b) of the Standing Orders of the management running as under :—

Clause 18(H)(b)

A workman, who has completed one year service, may be granted extraordinary leave upto eighteen months in case he is undergoing treatment for leprosy, cancer, pleurisy or tuberculosis in a recognized medical institution or from a qualified specialist or a civil surgeon, on production of a

certificate, subject to the condition that the post from which the workman proceeds on leave is likely to last till his return to duty.

14. Whereas, learned counsel for the management as noted above, has argued that though the first party is entitled to the benefit of leave as provided under the above said Clause 18(H) but that has to be sanctioned and approved by the management as per Clause 22 of the very same Standing Orders. The provisions according to the management relevant for the purpose namely, Clause 22(H)(i) run as under :—

Clause 22(H)(i)

“Application for leave or extension of leave on medical grounds shall be supported by a certificate from the Company’s Doctor or where there is no company’s Doctor, a Govt. Medical Officer, standing the period for which leave is recommended. For leave other than commuted or quarantine leave or maternity leave, a certificate from a registered medical practitioner may also be accepted. On receipt of such application, the sanctioning authority shall immediately inform the workman in writing whether the leave or extension of leave has been granted and if so, for what period. A workman, who has been sanctioned leave or an extension of leave on medical grounds for a period exceeding 7 days at a time shall not be allowed to resume duty unless he produces a certificate of fitness from the Company’s Doctor. In case a workman suffers from an infectious/contagious disease and he takes leave, he shall be allowed to join duty on production of fitness certificate from the company’s Doctor, irrespective of the duration of the leave.”

15. Therefore, on reading the provisions of Standing Orders of Clause 18(H)(b) and Clause 22(H)(i), it will become crystal clear that though the first party is entitled for extraordinary leave for a period of 18 months, he being in the service of the management for a period of more than one year as required under the said provision, he must get the leave sanctioned well in advance and for that he must apply to the management well in advance along with the medical certificate issued by the competent doctor. In the instant case, undisputedly, the first party remained absent from duty for having sent leave application dated 29-11-1998 seeking leave until 5-12-1998 and thereafter by sending a telegram dated 05-12-1998, he remained absent from duty unauthorisedly for about a period of more than 11 months without any intimation to the management or without making any attempt to ascertain from the management whether the leave sought for by him by way of extension actually has been granted or not. He takes his own time without any intimation to the management and remains absent from duty for a period of more than 11 months and on one fine morning i.e. on 11-11-1999 he approaches the management seeking permission to report

for duty along with the medical certificate issued by the Civil Surgeon and Medical Superintendent, Govt. TB Sanatorium, Vellore and thereby wanted to justify his absence from duty taking shelter under the above said Clause 18(H)(b). In this action of the first party there was no justification to say that his absence from duty was in any sense authorized, as admittedly he has not followed the procedure contemplated under the Provisions of 22H(i) of the aforesaid standing orders. Even otherwise, as per the above said medical certificate at Ex. W1, it can be revealed that though he is diagnosed to be suffering from the disease of TB, he was not taking the treatment as an in-patient but was visiting the hospital concerned taking the treatment as an out patient. Therefore, nothing prevented the first party to have visited the management in the meanwhile to ascertain as to whether the leave sought for by him actually sanctioned or not. This attitude of the first party must lend support to the management contention that he was least bothered to join his duties and remained unauthorisedly absent from duty for such a long period without any attempt at least being made by him to ascertain as to whether he has been granted leave or not. Therefore, keeping in view the aforesaid admitted facts and the evidence brought on record in the statement of MW2 and the first party himself, it can be safely concluded that the first party remained unauthorisedly absent from duty from 5-12-1998 to 11-11-1999.

16. Now, the next question to be considered would be, for his misconduct of absenteeism what punishment the first party is deserved. Learned counsel for the first party cited the rulings reported in ILR 1989 KAR 3191, AIR 1994 SC 215 and a decision of Calcutta High Court reported in 1993 ILJ page 471 to make out his point that the absence of the first party from duty even if, were to be taken as an unauthorised absence, he did not deserve punishment of discharge and that a lesser punishment may be imposed upon him in the interest of justice. In the aforesaid Calcutta High Court’s decision the unauthorised absence of the delinquent concerned was for about a period of 19 days and his Lordship of Calcutta of High Court held the view that major punishment of termination of services in such case was not proper. In the case of the aforesaid Supreme Court decision the delinquent concerned committed the misconduct of overstaying leave period subsequent to order of rejection of application for extension of leave and it was established in the said case that there was no willful intention on the part of the delinquent to flout the order and therefore, punishment of dismissal was held to be disproportionate and relief of reinstatement with all monetary and service benefits was granted in favour of the delinquent concerned. The principle laid down by his Lordship of our Hon’ble High Court in a decision reported in 1989 ILR KAR 3191, were also taken support of the learned counsel for the first party seeking lenient view from the court.

17. Whereas, learned counsel for the management cited the decisions reported in 2006 1 SC cases Page 589 and an unreported decision in WP No. 202/1995 to support his arguments that the first party having remained absent from duty for such a long period and so also taking into consideration his past service record of remaining absent from duty on three earlier occasions, he deserves no punishment lesser than the punishment of removal from service. The principle laid down in the aforesaid first case cited on behalf of the management, in my humble opinion may not be applicable to the facts of the present case as in the aforesaid decision the delinquent concerned had remained unauthorisedly absent from duty for about a period of 3 years. As far as the other decision quoted on behalf of the management concerned, it is not made clear as to for what purpose the management wanted to rely upon this decision and going through the decision I do not find out the principle of law laid down in it covering the case of absenteeism.

18. Therefore, if we go by the principle laid down by their Lordship of Supreme Court in the aforesaid decision cited on behalf of the first-party and the principle laid down by our Hon'ble High Court in the case referred to supra, it appears to me that there is a case made out by the first party workman seeking a lenient view by way of lesser punishment. It is more so, for the reason that the first party undisputedly had produced a medical certificate with the management as provided under the Clause 18 (H)(b) of the Standing Orders, though did not produce the same in time as provided under the provisions of Clause 22H(i) of the said Standing Orders. Further during the course of trial of the Domestic Enquiry it has come out in the evidence of the management itself, that at no point of time charge sheet was served upon the first party or any enquiry notice was served upon him before exparte enquiry was conducted against him. There is also no proof on the part of the management to show that during the aforesaid absence period the management had served any memo or the letters Ex. M20 & M21 on the first party calling upon him to join duty. The enquiry notices and memos said to have been sent by the management to the first party undisputedly, have not been served upon him and therefore, this is again a circumstance mitigating in favour of the first party not to impose extreme punishment of discharge from services. In the result and the reasons foregoing, it appears to me that for the misconduct committed by the first party, he shall be punished with the denial of back wages from the date of impugned punishment order till the date of his reinstatement withholding his six annual increments to be accrued to him from the date of his reinstatement in service. He shall be treated not on duty from the date of impugned punishment order till the date of his reinstatement in service without any service benefits for the said period. Hence the following award :

AWARD

The management is directed to reinstate the first party workman into its services without any back wages

from the date of impugned punishment order till the date of his reinstatement withholding his six annual increments from the date of his reinstatement. The period elapsed in between the date of impugned punishment order and the date of reinstatement shall be discounted for service benefits. No costs.

(Dictated to PA transcribed by her corrected and signed by me on 14th September 2007).

A.R. SIDDIQUI, Presiding Officer

नई दिल्ली, 25 सितम्बर, 2007

का.आ. 3059.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ओ.एन.जी.सी. लिमिटेड, देहरादून के प्रबंधतंत्र के सम्बद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार, औद्योगिक अधिकरण/श्रम स्थायालय, लखनऊ के पंचाट (संदर्भ संख्या आई.डी.-116/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 25-9-2007 को प्राप्त हुआ था।

[सं. एल-30011/124/2001-आई आर (एम)]

एन.एस. बोरा, डेस्क अधिकारी

New Delhi, the 25th September, 2007

S.O. 3059.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. I.D. No. 116/2002) of the Central Government Industrial Tribunal/Labour Court, Lucknow now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the Management of ONGC Ltd., Dehradun and their workman, which was received by the Central Government on 25-9-2007.

[No. L-30011/124/2001-IR (M)]

N. S. BORA, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
LUCKNOW**

Present :

Shrikant Shukla, Presiding Officer

I.D. No. 116/2002

Ref. No. L-30011/124/2001-IR(M) dated 14-6-2002

BETWEEN

**Oil & Natural Gas Commission Karmchari Sangh,
The General Secretary,
32, Chakrata Road,
Dehradun**

AND

**ONGC Ltd.,
The General Manager (P),
Tel Bhawan,
Dehradun-248001**

AWARD

1. The Government of India, Ministry of Labour, New Delhi referred the following dispute vide Order No. L-30011/124/2001-I.R.(M) dated 14-6-2002 for adjudication to the Presiding Officer, CGIT-cum-Labour Court, Lucknow;

SCHEDULE

"Whether the action of the ONGC Ltd., Dehradun Management in not giving the employment on regular post to Sri Ram w.e.f. 14-1-1999 as Mali, Sri Keswanand Nautiyal w.e.f. 10-8-91 as Mali, Nand Kishore w.e.f. 10-8-99 as Mali, Sh. Ram Milan w.e.f. 20-8-99 as Mali, Sri Ram Swaroop w.e.f 16-11-98 as Security Guard, Sri Narendra Kumar w.e.f. 14-1-98 Sri Soban Singh 18-8-99 as Mali, Sri Mahadev w.e.f. 18-11-99 as Security Guard and Sri Munna w.e.f. 14-1-98 as Security Guard is justified? If not for what relief these contingent workers are entitled to?"

The Trade Union has filed the statement of claim alleging therein the following details in respect of concerned contingent employees :—

Worker's name & Father's name	Date of appointment	Applied for post and date of application
Sri Ram S/o Late Sri Lalta Prasad	01-07-1982	Jr. Security Guard 13-01-1999
Keshwanand Nautiyal S/o M.L. Nautiyal	01-10-1981	Jr. Mali 10-8-99
Nand Kishore S/o Jyoti Lal	01-12-1987	Jr. Mali 10-8-99
Ram Milan S/o Nankoo	01-12-1983	Jr. Mali 10-8-99
Narendra Kumar S/o M.K. Srivastava	01-10-1985	Jr. Security Guard 14-1-1998
Soban Singh S/o Mahendra	01-05-1987	Jr. Mali 12-8-99
Mahadeo S/o Umanand	01-04-1984	Jr. Mali 18-8-1999
Munna S/o Kishore Lal	01-01-1987	Jr. Mali 18-8-99
Sri Ram Swaroop S/o Mohan Lal	01-10-1984	Jr. Security Guard 16-1-98

It is alleged that the aforesaid contingent employees have applied as per circular nos. given below:

1. No S.G./8(2)/98-RI(R) dated 29-12-1998
2. No HORT/9(6)/99-RP(R) dated 27-07-1999
3. No Attdt/9(3)/2000-Recit. dated 1-3-2001

It is also alleged that CPF number has been allotted to all above contingent employees. The said workers have been demanding for regularisation.

Following facts not disputed.

It is also not disputed that (Recruitment and Promotion) Rules, 1980 connected instructions were applicable to the employees of the Oil and Natural Gas Commission and thereafter the said regulations was amended in 1997 in which instead of 8th pass qualification 10th pass have been prescribed for the said posts.

Trade Union's case is that it raised the demand of regularisation before Asstt. Labour Commissioner (C) Dehradun in which a compromise was reached in 1987 and it was agreed whenever any post falls vacant, these contingent employees shall be given preference. It was also agreed that if any vacancy falls short, the contingent employee who has put in more service shall be preferred to that of a employee who has put in lesser service. Inspite of the said compromise the workers were not appointed on the regular post, however, juniors were appointed. It is also contended that non-regularisation of contingent employees amount to disobedience of the direction of Hon'ble High Court of Allahabad and Hon'ble Supreme Court of India. The trade union has accordingly requested that concerned contingent employees be regularised and be paid regular scale and back wages together with damages and cost.

The opposite party has filed written statement alleging therein; M/s. ONGC Ltd., is a public sector undertaking incorporated under the Companies Act, 1956. Being a Public Limited Company the majority shares are held by the Govt. of India. Opposite party company is engaged in the exploration and exploitation of Hydrocarbons.

The opposite party is employing and engaging different categories of the employees for carrying out its various activities. Apart from the permanent employees, the opposite party is also keeping and engaging contingent employees. Such employees are not permanent employees of the corporation and are subject to and governed by the Certified Standing Orders for contingent employees.

Absorption of contingent workers into the regular services of the Corporation is subject to availability of vacancies and fulfilment of terms and condition stipulated in the Certified Standing Orders and the Recruitment and Promotion Rules of the opposite party as amended from time to time and as in vogue. As per the same rules, the regularization cannot be claimed as a matter of right but is subject to (1) the contingent worker being registered with the employment exchange (2) he is held against regular post (3) he possesses requisite qualification and experience etc. laid down in the ONGC (R&P) regulations (4) no extra post will be created for absorption of the contingent worker and no relaxation in the qualification is accorded.

The eligibility criteria for the posts of Mali and Security Guard etc. as per ONGC Recruitment and Promotion Rules is as follows :

(i) Jr. Mali	Literate with 5 years experience in line	Age 27 years
(ii) Jr. Security Guard	Class 10th Min. Ht. 5.6, Chest 34 inches within 2 inches expansion	Age 27 years

All the 9 persons whose names are mentioned in the order of reference under section 10 of ID Act, 1947 had earlier filed a writ petition No. 23550 of 1987 against the opposite party before the Hon'ble Allahabad High Court, claiming the relief of regularization in the services of the opposite party. The Hon'ble High Court however was pleased to dismiss the writ vide order dated 20-12-96. By dismissing the writ petition, the Hon'ble High Court declined to give the relief of regularization among others to the 9 persons mentioned in the order of reference, in the services of the opposite party.

Feeling aggrieved from the order dt. 20-12-96 dismissing the writ, the Oil and Natural Gas Commission Karmchari Union and 23 others, including the 9 persons mentioned in the reference order filed a review petition before the Hon'ble High Court, Allahabad. However the same was also dismissed by the Hon'ble Court vide order dated 10-12-97.

Again feeling aggrieved from the order dt. 10-12-97 dismissing the review petition the Oil and Natural Gas Commission Karmchari Union and 23 others, including the 9 persons mentioned in the reference orders filed a special appeal bearing no. 33 of 1998 before the division bench of Hon'ble Allahabad High Court. However, the same was also dismissed by the Hon'ble Court vide order dated 10-3-99.

While dismissing the special appeal, the division bench of the Hon'ble Allahabad High Court made it clear that the dismissal order will not prevent the applicant-petitioner from seeking relief in Appropriate Forum as admissible under law.

Again feeling aggrieved from the order dt. 10-3-99 of Hon'ble High Court Allahabad, the Oil & Natural Gas Commission Karmchari Union and the other petitioner moved the Hon'ble Supreme Court of India filing petition for special leave appeal bearing no. 12671/1999. However Hon'ble Supreme Court of India vide order dt. 14-2-2000 was also pleased to dismiss the special leave petition.

In the light of the above stated background and the facts highlighted and contained therein, the present order of reference made under Section 10 of the ID Act, 1947 at the behest of application of the applicant union moved before the conciliation officer in conciliation proceedings,

is not at all maintainable or sustainable. The different three orders of the Hon'ble High Court, and the order dt. 14-2-2000 of the Hon'ble Supreme Court of India as stated above, operate as res judicata and on the principle thereof the present order of reference is neither maintainable nor legally sustainable.

It is a well settled legal position that the award of the Hon'ble Industrial Tribunal can only be assailed by way of writ petition before the Hon'ble High Court but in the present case the applicant union had already claimed the relief of regularization against M/s. ONGC Ltd., before the Hon'ble High Court by way of moving a writ petition and by filing review and special appeal thereon and then by also moving the Hon'ble Supreme Court. But when once the Hon'ble High Court and Hon'ble Supreme Court dismissed the writ petition and special leave petition respectively then again claim regularization in the services of M/s. ONGC Ltd., before the CGIT, which is a court subordinate to Hon'ble High Court is not only mischievous but illegal and improper too. In view of the orders of the Hon'ble High Court and Hon'ble Supreme Court the Hon'ble CGIT is legally estopped the debarred from entertaining hearing and passing any award on the order of reference keeping into view the earlier specific orders of higher courts i.e. the High Court and the Supreme Court.

Without prejudice to the above, the Tribunal also lacks jurisdiction in the matter since no award for regularisation can be passed by the Tribunal in the present proceedings in favour of the concerned persons and against the opposite party.

It is well settled legal position that regularization cannot be claimed as of right and is subject to available vacancies and provisions contained in the relevant service conditions. Without prejudice to the fact and the legal position that the claim of the concerned 9 persons is barred and not maintainable as having already been rejected/dismissed by the Hon'ble High Court Allahabad and the Hon'ble Supreme Court, even in the present proceedings the concerned persons cannot claim any relief against the opposite party because they do not fulfill the prescribed and laid down criteria for regularization and in the absence of vacant posts.

In the light of above back ground, the present order of reference is liable for ex-facie rejection and dismissal. This is keeping in view the orders of the Hon'ble High Court and Hon'ble Supreme Court as stated above.

The management has also submitted that allotment of CPF code number does not tantamount to granting a permanent status. The Provident Fund and Miscellaneous Provisions Act, 1952 requires allotment of EPF/CPF number to even those workers who are engaged for every day one. Regularisation can not be claimed in absence of fulfilment of all the eligibility criteria and in absence of vacant

permanent post. Contingent worker requested time to time for their regularisation and their request was also considered at the time of recruitment rules were considered as and when vacancies arose and suitable contingent workers were appointed for various posts. The management of the opposite party has not admitted to the alleged compromise reached in conciliation proceedings. However, the management of the opposite party has submitted that all the nine persons mentioned in the reference order are still in the employment of opposite party and they may be considered for regularisation as and when the vacancy arise but subject to condition that they must fulfil the eligibility criteria for the concerned post. It is submitted that intention of the opposite party are not to deprive the alighted contingent worker the benefit of regularisation, but at the same time the regularisation has to be considered only in respect of those who are eligible under the existing ONGC Recruitment Rules. It is submitted that ONGC Recruitment and Promotion Rules 1980 are applicable only in respect of regular employees of the opposite party. It has specifically been denied that the contingent workers were kept under Recruitment and Promotion Rules 1980. It is admitted that the said Recruitment and Promotion Rules 1980 have been modified which has been made effective from 1st Jan. 1987. It is also submitted that minimum educational qualification for class 4 post has been increased from 8th to 10th except for Jr. Mali and Jr. Sanitary Cleaner for which the qualification is literate with 5 years experience in line. Opposite party has specifically denied that after implementation of MPRP 1980 w.e.f. 1-1-1997 any recruitment was made as per R&P 1980 as alleged. The management has also submitted that "It is incorrect to contend that persons juniors in seniority list were absorbed in the opposite party." In this connection it is submitted that during the process of selection against regular posts, all eligible contingent workers are subject to a written test and based on performance and interview whosoever qualifies in the selection process, is then selected by selection committee without the concept of seniority list. The concept of seniority is only for the purpose consideration for absorption in the regular services and when vacancies arise, and not with the view to giving any preference for regularization. It has also been denied that the concerned persons possess the prescribed qualification/fulfil the eligibility criteria for regularization. The management of the opposite party has denied that the none of the persons are entitled for regularization. It is also contended as a matter of fact and record out of 9 contingent workers, Sri Ram, Keshwa Nand, Nand Kishore, Ram Milan and Soban Singh do not possess the prescribed qualification and experience as per the rules and fall short in eligibility criteria as per the ONGC Recruitment and Promotion Rules for the post of Jr. Mali. Hence these persons could not be and cannot be considered for the post of Jr. Mali. It is pleaded that at present there is no vacancy of Jr. Mali with the opposite Party. Similarly

Ram Swaroop Mahadev, Narendra Kumar and Munna are falling short of eligibility criteria as per existing ONGC Recruitment Rules for the post of Jr. Security Guard. Therefore these 3 also could not be and cannot be considered for regularization against the said post. It is also pleaded that present there is no vacancy for the post of Jr. Security Guard with the opposite party. It is also pointed out that chart annexed by the trade union along with their statement of claim is contradictory to the order of reference. As per the order of reference, regularization is being shown in respect of Sri Ram against the post of Mali, whereas in the annexure of the application union the post claimed in his respect is shown as Jr. Security Guard. Similarly in the reference order regularization is shown in respect of Mahadev and Munna against the post of Security Guard whereas in the annexure of the applicant union the post claimed in their respect is of Jr. Mali. Hence there is inherent difference between the order of reference and the annexure. It is also contended that as per the order of Hon'ble High Court and Hon'ble Supreme Court the dust has already settled in the matter and the relief of regularization claimed by the concerned 9 persons has already been declined. the concerned persons cannot again claim the same in the present proceeding and in this forum.

The regularization cannot be claimed as a matter of right in the present circumstances. Even the Hon'ble Tribunal lacks jurisdiction in the matter and cannot saddle the employer/opposite party with any candidate(s) who does (do) not possess the minimum prescribed and laid down qualification and especially so in the absence of any vacancy. As per well settled principles of law, in order of claim regularization one has to show that he has a right to be considered and was eligible for it. When regularization depends on vacancy of post, a person cannot claim regularization in the absence of any such vacancy. The question for consideration for regularization cannot precede the acquisition of qualification or eligibility. Therefore in the present case, the union or concerned persons cannot claim to be considered for regularization without acquiring the qualification or the eligibility and in the absence of vacant regular posts.

In view of the above the applicant union is not entitled to the relief of regularization in respect of concerned persons in the regular services of the opposite party or any other relief against the opposite party. The Hon'ble Court is requested to uphold the contentions of the opposite party and may further be pleased to decide the order of reference of the opposite party and against the applicant.

The trade union has filed the rejoinder wherein they have reiterated the statement made in the statement of claim.

The trade union has stated in the rejoinder that the workers are entitled to regularization as per R&P 1980 and the opposite party has got superseded the said rules vide

No. 12(215)-89 R&P dated 17-3-98. It is further alleged that the Solicitor General admitted before the Supreme Court that at any time when the vacancies occur, the workers shall be considered, but instead of regularizing the workers opposite party appointed fresh hands. Trade union has further submitted that the Hon'ble High Court & the

Supreme Court has not passed any such order which may cause hurdle in deciding the issue.

The opposite party has appointed as per R&P 1980 (Old) even after 1-1-97. Trade union has filed the list of such employees with the rejoinder. The same is produced below:

Name	Date of joining as contingent	Designation in permanent post	Date of appointment in permanent post	Qualification
1	2	3	4	5
Dan Singh	15-12-95	Jr. Security Guard	28-05-99	Inter
Chatter	18-06-96	-do-	28-05-99	High School
Ruddramani Mani	15-12-95	-do-	28-05-99	Intermediate
Keshvanand Jugran	15-12-95	-do-	28-05-99	High School
Raj Kumar	18-05-95	-do-	28-05-99	ITI (Elect)
Sampurnand Nautiyal	15-12-95	-do-	28-05-99	B. Com
Ghananand Pand	15-12-95	-do-	28-05-99	High School No certificate
Basabt Ballabh Pandey	15-12-95	-do-	28-05-99	Inter
Gagdih Singh Rana	29-12-95	-do-	28-05-99	High School
Rakesh Chand Saklani	15-12-95	-do-	28-05-99	Inter
Kandam Ram Arya	29-12-95	-do-	31-05-99	High School
Gopal Singh	31-10-85	-do-	31-05-99	Inter
NS Bohra	31-10-85	-do-	28-05-99	Inter
B S Negi	25-06-83	-do-	28-05-99	High School
Ramesh Kr.	13-06-90	-do-	28-05-99	M.A.
Hatim Shah Nawaz	11-10-90	-do-	28-05-99	B.A.
Ramesh Aswal	Nil	-do-	04-06-99 outsider	
Sunil Chauhan	Nil	-do-	08-05-99 outsider	
Sanjay Kr.	Nil	-do-	28-05-99 outsider	
Sunil Kr.	Nil	-do-	04-06-99 outsider	
Juggi Lal	18-06-96	Mali	27-10-99	V Pass
Daya Ram	15-12-95	-do-	-do-	High School
Gopal Yadav	29-12-96	-do-	-do-	VII Pass
Ramji	19-12-95	-do-	-do-	High School
Pachav Gopal Shah	29-12-95	-do-	-do-	VIII Pass
Ram Preet	29-12-95	-do-	-do-	Nil

1	2	3	4	5
Dinesh Chand Dobhal	15-12-95	Mali	27-10-99	High School (Prathma)
Dev Anand	15-12-95	-do-	-do-	High School
Sher Singh Dheti	15-12-95	-do-	-do-	VIII Pass
Satyanarayana	29-09-84	-do-	-do-	Nil
Mohan Singh	11-10-90	-do-	-do-	Nil
Lalit Kr. Mandai	11-10-90	-do-	-do-	VIII Pass
Dhani Ram Belwal	11-10-90	-do-	-do-	Inter
Ramchander	Nil	-do-	-do-	VIII Pass
Madan Singh	Nil	-do-	-do-	VIII Pass
Budh Ram	Nil	-do-	-do-	V Pass
Kanahayya Lal	Nil	-do-	-do-	V Pass
Joti	Nil	-do-	-do-	VIII Pass
Keshvanand Nautiyal S/o ML Nautiyal	01-10-81	Matter concerned with dispute	-do-	VIII Pass
Sriram S/o Lalita Pd.	01-07-82	-do-	-do-	High School (Prathma)
Ram Milan S/o Nanku	01-12-83	-do-	-do-	Nil
Mahadev S/o Umanand	01-04-84	-do-	-do-	High School (Prathma)
Ram Swarup S/o M. Lal	01-10-84	-do-	-do-	High School (Prathma)
Narendra Kr. S/o MK Srivastava	01-10-85	-do-	-do-	High School (Prathma) ITI (Plumb.)
Munna S/o Kishorilal	01-01-87	-do-	-do-	VIII Pass
Soban Singh S/o Mahendra	01-05-87	-do-	-do-	VIII Pass
Nand Kishore S/o Jiyalal	01-12-87	-do-	-do-	VIII Pass

The workers though applied for the post from time to time, but their applications have not been considered.

The trade union has filed photocopies of the following documents :

1. Office Order of ONGC No. PF/806/99-HQ dt. 11-6-99 regarding appointments of Jr. Security Guard.
2. The Manager (P&A) R&P ONGC circular dated 9-7-2002 about the seniority list of Junior Attendants.

The opposite party has filed the photocopies of the following documents with the list of photo A2-11 :

1. Certified standing order for contingent employees of ONGC Ltd.
2. Relevant portion of R&P Regulation of 1980.

3. Modified R&P Rules 1980 effective from 1-1-97.
4. Judgment of High Court Allahabad dt. 20-12-96 passed in civil misc. writ petition no. 23550 of 1987 Ref. Oil and Natural Gas Commission Karamchari Sangh Vs. ONGC & Another.
5. Review application filed at High Court Allahabad in Civil Misc. writ petition No. 2355/97 dated March 1997 with affidavit.
6. Judgment of High Court Allahabad in the said review application dt. 10-12-97.
7. Special appeal no. 33 of 1998 before Allahabad High Court.
8. Copy of judgment passed in special appeal dt. 10-3-98.

9. Judgment passed in SLP by Supreme Court in special leave appeal (civil) no. 12671/99 dated 16-2-2000 with the seniority list.
10. Copy of office order of Group General Manager (Personal) of ONGC dt. 23-3-93.
11. Special leave application no. 12671/99 with annexures.

The trade union has filed photocopies of the following documents :

1. Standing order
2. R&P Regulation 1980 letter no. 12(215)/89 RPI dated 17-3-98.
3. List of 37 contingent employees.
4. Judgment passed in W.P. No. 23550/1987.
5. Order passed by Supreme Court in 12571/1999.
6. Judgment of Allahabad High Court passed in Civil Misc. W.P. No. 2607 of 1990 in Sheo Pal Sharma and Others Vs. ONGC & Others dt. 17-10-95.
7. Judgment of Allahabad High Court passed in Civil Misc. W.P. 23550 of 1987 Oil and Natural Gas Karmchari Union Vs. ONGC Ltd. & Another dt. 20-12-95.
8. Order of Allahabad High Court passed on impleadment application dt. 12-7-96.
9. Judgment of High Court Allahabad dt. 20-2-96 passed in W.P. 23550 of 1987.
10. Judgment of Supreme Court passed in Civil Appeal 12571/99 dt. 16-2-2000.
11. Absorption order dt. 13-5-99 of Kanchal Singh Negi.
12. List of contract labour employee at New Delhi.
13. Office order dt. 17-3-98 regarding recruitment.
14. Circular in respect of Junior Attendant with provisional seniority list.
15. Office order dt. 11-6-99 about the appointment of Security Guard.
16. Office order regarding appointment of Jr. Mali's dated 6-3-2000.
17. Interview letter dt. 25-8-87 regarding Narendra Kumar.
18. Interview letter dt. 13-3-90 regarding Narendra Kumar.
19. Application of Narendra Kumar dt. 17-1-90, 14-1-98.

20. Applications of Narendra Kumar 12-8-98.
21. Circular dt. 27-7-99 about Jr. Mali (inviting application).
22. Application of Ram Swarup, Munna, Keshwanand Nautiyal, Nand Kishore, Mahadeo.
23. Application of Narendra Kumar.
24. Application of Sobaran Singh, Sriram with letter of ONGC dt. 23-3-2001.
25. Office order dt. 13-11-02 for reporting on duty.
26. Letter dt. 5-7-01 about the representation for regularization.
27. Application of Narendra Kumar, Trade Union.
28. Letter dt. 10-6-01 of Dy. Manager addressed to Sri Satish Kumar Bhasin dt. 15-6-01 addressed to Suresh Chandra.
29. Letter of representation of trade union addressed to Asstt. Labour Commissioner (C), Dehradun.
30. List of ONGC dt. 10-1-03 regarding trainee attendant.
31. Office order of ONGC dt. 11-6-99, 6-3-2000.

Trade union has filed the affidavit of Keshwanand Nautiyal, Sriram, Ram Milan, Mahadeo, Ram Swarup, Narendra Kumar, Nand Kishore, Munna, Sobaran Singh.

Opposite party has filed following additional documents in the form of photocopy with application paper No. 70C :

1. Letter No. GM (P&A)/R&P?I(ii)/2001 of General Manager (R&P) Tel Bhawan.
2. Proceedings of selection committee dt. 4-11-99 for direct recruitment against the post of Jr. attendant, handicapped category alongwith list.
3. Proceedings of selection committee dt. 4-11-99 for direct recruitment against of post of Jr. Attendant in hearing impaired handicapped category alongwith the list.
4. Proceedings of selection committee dt. 7-10-99 for the recruitment of Jr. Mali in SC category alongwith list.
5. Proceedings of selection committee dt. 7-10-99 for direct recruitment for dependent of deceased employees against the post Jr. Mali in SC category alongwith the list.
6. Proceedings of selection committee dt. 7-10-99 for direct recruitment for dependents of deceased employees against the post of Jr. Mali in OBC category alongwith list.

7. Proceedings of selection committee dt. 7-10-99 for direct recruitment against the post of Jr. Mali in OBC category alongwith the list.
8. Proceedings of selection committee dt. 7-10-99 for direct recruitment against the post of Jr. Mali in general category alongwith list.
9. Proceedings of selection committee dt. 27-3-99 direct recruitment against the post of Jr. Security Guard in SC category alongwith list.
10. Proceedings of selection committee dt. 27-3-99 for direct recruitment against the post of Jr. Security Guard in General Category alongwith the list.

Opposite party has also filed the affidavit of Sri M.K.Basu.

Heard learned office bearer of the trade union. Opposite party has filed the written arguments.

Perused evidence on record carefully.

First of all, I take up the issue of opposite party as pleaded in written statement in para 11 that the reference order is not maintainable or legally sustainable as different three order of Hon'ble High Court of Allahabad and the order dt. 14-2-2000 or Hon'ble Supreme Court operate as res judicata.

The opposite party in para 7 of the written argument has stated that. Union had already filed a writ petition no.28550/87 before Hon'ble High Court, Allahabad for regularization of these nine workmen, but the same was dismissed on merit on 20-12-95, thereafter a review petition was also dismissed on 10-12-97 the union again filed a special appeal no. 33 of 1998 before Division Bench of Hon'ble High Court, Allahabad in matter of regularization of services of these workmen which was also dismissed vide order dt. 10-3-99. The union aggrieved with the order dt. 10-3-99 again filed a petition for spl. leave no. 12671/99 which has also been dismissed on 14-2-2000 by Hon'ble Supreme Court of India. The said judgement are final and binding on this score only claim merits rejection.

In para 6 of the written statement is stated that all the 9 persons whose names are mentioned on the order of reference under Section 10 of I.D. Act, 1947 had earlier filed a writ petition no. 23550 of 1987 against the opposite party before the Hon'ble Allahabad High Court, claiming the relief of regularization in the services of the opposite party. The Hon'ble High Court however was pleased to dismiss the writ vide order dt. 20-12-96. By dismissing the writ petition, the Hon'ble High Court declined to give the relief of regularization among others to the 9 persons mentioned in the order of reference, in the services of the opposite party.

The copy of the judgement of High Court, Allahabad is on the record. Hon'ble High Court has discussed the

provisions of standing orders applicable in the ONGC which provides made for absorption on regular post. In para 13 of the judgement the contention of the ONGC's counsel is stated which as follow. According to the counsel for the respondent, on the basis of the seniority list maintained by the commission, the claim of contingent employees for regularization are being executed by absorbing them against vacancies that are occurring. In process, admittedly 12 persons out of 36 petitioners have already been accommodated and absorbed which fact is not denied by the petitioners. Therefore, the respondents would be regularising and absorbing the petitioners if vacancy arises subject to other conditions of service according to the rules and regulations referred to in the standing orders and the office order respectively. In the facts and circumstances, therefore, the petitioners cannot claim as a right absorption and/or regularization. The petitioners have also not been able to point out that despite existence of vacancy, their claim for regularization is being overlooked. Mr. Saxena has not been able to point out any instance of infraction of the scheme for regularization as contained in Annexure 2. On the other hand, he claims to be regularised simply because they have worked for more than 247 days.

Concluding the judgement Hon'ble High Court has ordered as follows in paras 27, 28 and 29 :

- "27. Viewing from that point of view in the present case, a scheme has already been framed in which no fault can be discovered.
28. In that view of the matter, the petitioners are not entitled to the relief claimed in the writ petition though, however, the respondents shall take steps within the ambit of the Standing Order read with the office order referred to above in the light of the observation made in the case of Piara Singh (supra).
29. The writ petition thus stands dismissed. There will, however, no order as to costs."

The parties are understood to have litigated upto the Highest Court of the land i.e. the Supreme Court, as the trade union filed the special leave to appeal (civil) no. 12671 of 1999 Karamchari Sangh and Others Vs. ONGC Ltd. and others which was disposed of by order dt. 16-2-2000. The judgement of the Hon'ble Supreme Court is reproduced below :

ORDER

Karamchari union of Oil and Natural Gas Commission (for short 'ONGC') and others are the petitioners before us challenging the order of the Division Bench of the Allahabad High Court. The petitioners approached the High Court for issuance of a mandamus to direct the employer to regularise their services and for paying same scale of pay as that of the regular employees. The High Court on analysis of all

the materials placed before it came to the conclusion that there is already a scheme evolved by the employer under which the case of regularization of these (contingent employees) is going to be dealt with and in that view of the matter the question of issuing any mandamus does not arise. The learned counsel for the petitioners states that even though vacancies are still available yet the cases of these (contingent employees) are not being considered for regularization. Mr. Salve, the learned Solicitor General appearing for the ONGC states that in accordance with the scheme/standing order the case of these contingent workers will have to be duly considered if not already considered if there exists any vacancy and if there is no vacancy as on date then as against the future vacancies likely to occur. But their cases will have to be considered in accordance with the evolved scheme. In view of this statement made by the learned Solicitor General, we do not find any justification for our interference with the impugned order of the High Court for issuing any direction. The special leave petition stands dismissed accordingly.

Thus entitlement of regularization of the concerned worker is not negated.

The trade union has stated here in the present case before this tribunal that all 9 workmen did apply for the post of Jr. Security Guard and Jr. Mali as follows :

1. Sriram who was working since 1-7-88 as contingent employee applied for the post of Jr. Security Guard on 13-1-99.
2. Ram Swarup who was working since 1-10-84 applied for the post of Jr. Security Guard on 16-1-98.
3. Narendra Kumar who was working since 1-10-85 applied for the post of Security Guard on 14-1-98.
4. Keshwanand Nautiyal working since 1-10-81 applied for the post of Jr. Mali on 10-8-99.
5. Nand Kishore working since 1-12-83 applied for the post of Jr. Mali on 10-8-99.
6. Ram Milan working since 1-12-83 applied for the post of Jr. Mali on 10-8-99.
7. Sher Singh working since 1-5-87 applied for the post of Jr. Mali on 12-8-99.
8. Mahadeo working since 1-4-84 applied for the post of Jr. Mali on 18-8-99.
9. Munna working since 1-1-84 applied for the post of Jr. Mali on 18-8-99.

The issue taken up before the tribunal is that the R & P Rules, 1980, as it stood before 1997 should have been applied for in worker's case instead amended R & P Rules has been applied although in respect of other workman

though promoted after the amended R & P Rules came into operation, have been selected as per old rules, thus these workmen have been discriminated. It is also contended that since these workmen have put in around 20 years of service therefore applying the amended rule is unfair labour practice inasmuch as the trade union has been contesting their cause right since 1987.

In para 10 of the statement of claim the trade union has specifically stated that non-compliance of the orders of High Court and Supreme Court and the compromise is a clear violation. The management also admits that all nine contingent workers are still continuing in the employment of opposite party and they may be considered for regularization as and when the vacancies arise but subject to that they fulfil the eligibility criteria for the concerned post. It is also submitted by the management of ONGC that the intention of the opposite party management are not to deprive the eligible contingent workers the benefits or regularization but at the same time the regularization will be considered only in respect of those who are eligible under the existing ONGC Recruitment Rules. In para 3 of the written statement it is submitted that contingent workers were not only been considered but suitable candidates were appointed for various post.

In the circumstances discussed above the contention of the opposite party that the reference order is not maintainable/sustainable or the same is barred by res judicata is misconceived and misleading one.

According to the evidence on record as per amended R & P Rules, 1980 the prescribed eligibility criteria for Mali Gr. III was only literate with 5 years of experience, but after amendment now the same is 3 years as Jr. Mali and the eligibility criteria for Jr. Mali is literate with 5 years experience. Similarly a candidate as per old rules for the post of Jr. Security Guard should have been 8th Pass, but after the amendment same is altered to matriculation. This is unjust and unfair. It is submitted that the except Ram Milan who is SC candidate all are either VIII pass educated upto High School (Prathma) but they have not been considered. It is pointed out outsiders have been recruited as security guard and juniors to the workers have been selected as Mali and Security Guards.

The worker Ram Swarup has stated in his cross examination that he is working as attendant and he wants to be regularised on the same post. He has also stated that he applied for the regularization on the post of Jr. Security Guard and however he has stated that he never demanded for the regularization on the post of Security Guard. He has also stated that he has not filed any certificate about educational qualification and experience in the court. Sri Ram Swarup has stated in the cross examination that he has passed High School only in 2002. Question is whether the worker Ram Swaroop was eligible as per the amended rules. Answer is simply no.

Worker Narendra Kumar too has stated in his cross examination that he passed High School in the year 2002. He has stated that he has not filed the certificate with ONGC or in the court. He has stated that he never worked as Mali. He has stated that he applied for the post of Jr. Mali on 12-8-99 but he has no job experience. He has also stated that on 14-1-99 he applied for the post of Jr. Security Guard.

The issue is referred whether the action of the ONGC Ltd., Dehradun, Management is not giving the employment on regular post to Narendra Kumar w.e.f. 14-1-98 as Security Guard is justified. According to worker himself he applied much after 14-1-98 and was not matriculate; as such he was not eligible for appointment.

Nand Kishore has stated in cross examination that he has filed the claim for regularization on the post of Jr. Mali w.e.f. 10-8-99. He has further stated that he applied for the said post. On the point of experience regarding the job of Mali, the worker Nand Kishore has stated that he has worked in the capacity of attendant alone. The representative of the opposite party Sri Ripan Mohan suggested that unless a candidate has acquired experience in the field of the gardening such candidate is not eligible for the post. The suggestion is correct. Action of the management can not be termed as unjust for not regularising the worker on the post of Jr. Mali w.e.f. 10-8-99.

Fourth worker Sri Munna. He has also stated in cross examination that he got filed the statement of claim for regularising him on the post of Jr. Mali w.e.f. 10-8-99. On being questioned by the representative of the opposite party Sri Ripan Mohan, Sri Munna has specifically admitted that he has no experience in the field of gardening. He has also admitted that he knows that a candidate should have five years experience in the job of gardening. It is noteworthy that the reference order in which the issue has been sent for adjudication is that whether the action of management of ONGC, Dehradun is not giving the employment on regular post to Sri Munna as Security Guard w.e.f. 14-1-98 is justified? Firstly Munna was not the candidate for Security Guard and secondly he was only VIII pass. So far as his own statement is concerned he got the statement filed for the regularization on the post of Jr. Mali. In the circumstances he is not eligible for the post of security guard and as Jr. Mali.

The trade union has produced only 4 workers for cross examination. Five other workers Sri Keshwanand Nautiyal, Sri Ram, Sri Ram Milan, Sri Mahadeo and Soban Singh, have filed the affidavit but have not turned up for cross examination. For these contingent employees the reference order is, whether the action of ONGC, Dehradun Management is not giving the employment on regular post to Sri Ram w.e.f. 14-1-99 as Mali, Sri Keshwanand Nautiyal w.e.f. 10-8-91 as Mali, Sri Ram Milan w.e.f. 20-8-99 as Mali, Soban Singh w.e.f. 18-8-99 as Mali, Mahadeo w.e.f. 18-11-99 as security guard is justified.

Trade union has to prove that Sarva Sri Ram, Keshwanand Nautiyal, Ram Milan and Soban Singh were eligible for the post Mali and they had the experience as per the rules. Similarly trade union has to prove that he was eligible for the post of security guard. Trade union has to prove that they did apply for the relevant post where the date mentioned in the order of reference.

The opposite has pleaded in the written statement that the union must be put by strict proof of the so-called alleged claim. Regularization can not be claimed in absence of all the eligibility criteria and in absence of vacant, permanent post. Opposite party has further stated that Sarva Sri Sri Ram, Keshwanand Nautiyal, Ram Milan, Soban Singh do not possess the prescribed qualification and experience as per R & P 1980 and fall short in eligibility criteria as per ONGC R & P Rules prescribed for the respective post of Jr. Mali. None of them worked as Mali. Hence these persons could not be and can not be considered for the post of Jr. Mali. Similarly Sri Mahadeo is falling short of eligibility criteria as per existing ONGC Recruitment Rules as prescribed for the post of Jr. Security Guard. Therefore Sri Mahadeo could not be and can not be considered for regularization against the post of Jr. Security Guard.

Workman Sri Keshwanand has filed his affidavit dated 8-8-03, but in the said affidavit, he has not stated a single word that he was qualified to be appointed as Mali and he had relevant experience in the field of gardening. Sri Sri Ram has also filed the affidavit dated 8-8-03, but he has also not stated that he had relevant experience for the trade of Mali, worker Sri Ram Milan has also filed the affidavit dt. 8-8-03, but he has also not stated that he was eligible for the post of 'MALI'. Worker Soban Singh has also filed the affidavit dt. 8-8-03 but he has not stated therein that he was qualified and had relevant experience in gardening and was eligible for the post of Mali. Workman Sri Mahadeo has too filed the affidavit dt. 8-8-03, but has not stated that he was qualified to be appointed as Security Guard. All the workers mentioned on this paragraph have not turned up for cross examination to face the cross examination by the representative of opposite party, therefore, their affidavit can not be read in evidence.

So far as the modification in the Recruitment and Promotion Rules are concerned, it has to be looked into whether the management has acted upon with the intention of mala fide, just to deprive of the worker to get regularised. This issue is not referred for adjudication.

It is noteworthy that Chief Manager (P & A) has filed his affidavit. He has been cross examined by the representative of trade union. Sri M. K. Basu has admitted in the cross examination that, the ONGC has appointed the worker attendant in 1999 as per the orders of Hon'ble Delhi High Court, where the worker passed only VIIth standard. Sri Basu replied in affirmative and stated that there is

provision for relaxation in qualification with the management of ONGC. The representative of the trade union has argued that where Solicitor General gave an undertaking to the Hon'ble Supreme Court in 2000 that case of workers will be considered against future vacancies likely to occur. As a model employer the management ought to have considered the workman's case first, for whose benefit the trade union is litigating since last 20 years. The management ought to have applied rules which existed in 1987, when the trade union raised the issue in Allahabad High Court or should have relaxed the qualifications under the exercise of inherent powers.

The trade union leader has relied on (2007) 1 Supreme Court Cases 250 Oil and Natural Gas Corporation Ltd. Vs. Engineering Mazdoor Sangh wherein the Tribunal ordered the ONGC to consider the names of worker for regularization who have put in 240 days and by providing the age relaxation. The High Court modifying the order and directed that the workers be treated at par with the regular workers working against corresponding or identical post. The High Court also ordered that the management shall not wait for availability of post. Division Bench of High Court disposing the appeal of ONGC, directed that the workmen concerned be notionally treated as regularised w.e.f. 1-5-99. Supreme Court however set aside the judgment and ordered that till such time the 153 workers are not absorbed against the regular vacancies in the category concerned no recruitment from outside will be made by ONGC Ltd. within a period of 2 years.

The trade union representative has argued that all citizens are equal before law and the law does not permit discrimination. This is heart burning to the worker of the same organization to get them regularised and these workers are not only deprived from being regularised only because the management did not attempt seriously for regularization although Solicitor General stated before the Hon'ble Supreme Court. The trade union representative has argued that the management of ONGC on the one hand did not make serious attempts for regularization. On the other hand Sri M. K. Basu the witness of the opposite party continued

stating that the case of regularization/absorption has been dismissed right from the High Court till Supreme Court and concealed the fact that the learned Solicitor General on behalf of the ONGC Ltd., stated before the Supreme Court that in accordance with the scheme/standing orders the case of these contingent employees will have to be considered if not already considered if their exists vacancy and if there is no vacancy as on date then against the further vacancies likely to occur. But their case will have to be considered in accordance with the evolved scheme. In the above backdrop of statement made by the learned Solicitor General, the Hon'ble Supreme Court did not find any justification for interfering the orders of High Court. Learned representative has further argued that no scheme has been evolved even though 6 years have passed for regularization/absorption of those nine employee and this is a case of violation of undertaking given to the Hon'ble Supreme Court.

I have considered the argument. It is to be kept in mind that the Central Government Industrial Tribunal-cum-Labour Court is of limited jurisdiction it has to answer the issue referred to it and can not travel beyond the reference order.

On the face of it Recruitment and Promotion rules as amended from time to time are applicable to the present case. I am not adjudicating the issue whether the action of the management R & P Rules 1980 effective from 1-1-97 is a result of unfair labour practice adopted by the employer to deprive of the contingent workers for regularization/absorption.

Trade union has failed to make out a case that the workers were entitled to regular post of Mali and Security Guard from the date mentioned in the reference order. Issue is answered accordingly against the trade union. Contingent workers are accordingly not entitled to any relief in this circumstances.

Lucknow

18-9-2007

SHRIKANT SHUKLA, Presiding Officer